

HAWALA AND UNDERGROUND TERRORIST FINANCING MECHANISMS

HEARING
BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL TRADE AND FINANCE
OF THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION
ON
HAWALAS AND UNDERGROUND TERRORIST FINANCING MECHANISMS:
INFORMAL INTERNATIONAL FINANCING NETWORKS THAT CAN SERVE
AS A PIPELINE OF FUNDS FOR TERRORIST

NOVEMBER 14, 2001

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



U.S. GOVERNMENT PRINTING OFFICE

81-714 PDF

WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

PAUL S. SARBANES, Maryland, *Chairman*

CHRISTOPHER J. DODD, Connecticut	PHIL GRAMM, Texas
TIM JOHNSON, South Dakota	RICHARD C. SHELBY, Alabama
JACK REED, Rhode Island	ROBERT F. BENNETT, Utah
CHARLES E. SCHUMER, New York	WAYNE ALLARD, Colorado
EVAN BAYH, Indiana	MICHAEL B. ENZI, Wyoming
ZELL MILLER, Georgia	CHUCK HAGEL, Nebraska
THOMAS R. CARPER, Delaware	RICK SANTORUM, Pennsylvania
DEBBIE STABENOW, Michigan	JIM BUNNING, Kentucky
JON S. CORZINE, New Jersey	MIKE CRAPO, Idaho
DANIEL K. AKAKA, Hawaii	JOHN ENSIGN, Nevada

STEVEN B. HARRIS, *Staff Director and Chief Counsel*

WAYNE A. ABERNATHY, *Republican Staff Director*

MARTIN J. GRUENBERG, *Senior Counsel*

MADELYN SIMMONS, *Republican Professional Staff Member*

JOSEPH R. KOLINSKI, *Chief Clerk and Computer Systems Administrator*

GEORGE E. WHITTLE, *Editor*

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

EVAN BAYH, Indiana, *Chairman*

CHUCK HAGEL, Nebraska, *Ranking Member*

ZELL MILLER, Georgia	MICHAEL B. ENZI, Wyoming
TIM JOHNSON, South Dakota	MIKE CRAPO, Idaho
DANIEL K. AKAKA, Hawaii	

CATHERINE CRUZ WOJTASIK, *Staff Director*

DANIEL M. ARCHER, *Republican Staff Director*

C O N T E N T S

WEDNESDAY, NOVEMBER 14, 2001

	Page
Opening statement of Senator Bayh	1
Prepared statement	36
Opening statements, comments, or prepared statements of:	
Senator Ensign	3
Senator Sarbanes	8
Senator Hagel	39

WITNESSES

James F. Sloan, Director, Office of Financial Crimes Enforcement Network (FinCEN), U.S. Department of the Treasury	3
Prepared statement	39
John Varrone, Assistant Commissioner, Office of Investigations, U.S. Customs Service	6
Prepared statement	41
Rahim Bariek, Bariek Money Transfer	22
Prepared statement	42
Tarik M. Yousef, Assistant Professor, Department of Economics, School of Foreign Service, Georgetown University, Washington, DC	26
Prepared statement	43
Patrick Jost, Product Development Manager, SRA International, Inc., Formerly of FinCEN, and Coauthor of the 1998 Report	28
Prepared statement	45

HAWALA AND UNDERGROUND TERRORIST FINANCING MECHANISMS

WEDNESDAY, NOVEMBER 14, 2001

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE,
Washington, DC.

The Subcommittee met at 2:37 p.m., in room SD-538 of the Dirksen Senate Office Building, Senator Evan Bayh (Chairman of the Subcommittee) presiding.

OPENING STATEMENT OF SENATOR EVAN BAYH

Senator BAYH. The Committee on Banking, Housing, and Urban Affairs, Subcommittee on International Trade and Finance, will come to order.

Senator Hagel will be about 15 minutes late, so I am going to hold down the fort by my lonesome until he gets here.

I would like to thank our witnesses for being here today and I would like to thank members of the audience for your attendance and your interest.

Let me begin with my opening statement and then we will hear from our witnesses.

Since the tragedy of September 11, Americans have become much more aware of how the terrorist threat and our response to it will affect all facets of society—how we travel, how we communicate, our health care system, and much, much more.

We have also become more aware, thanks in part to the good work of this Committee and the leadership of Senator Sarbanes, to the essential role that finances play in the terrorist's ability to attack Americans, both at home and abroad.

Simply put, the terrorist's ability to generate funds and transfer funds to plan and carry out their attacks are an essential part of the terrorist threat that we face.

In this war against terrorism, one of the most critical battles will take place not in a foreign land, but in the financial world, as we seek to paralyze terrorist activities by taking weapons out of their hands by cutting off their finances. In an interview in October with a Pakistani newspaper, Osama bin Laden seemed unconcerned about our efforts to shut off the flow of his money. He said Al Qaeda has three financial systems organized by backers who are as, "aware of the cracks inside the Western financial system as they are aware of lines on their hands." He also said: "These are the very flaws of the Western financial system, which are becoming a noose for it."

One system which bin Laden and his terrorist cells use to covertly move funds around the world is through Hawalas, an ancient and formerly widely unknown system of transferring money. Today's hearing will examine Hawalas and how they have been exploited by Osama bin Laden. Although most Americans have never heard of a Hawala, that system almost certainly helped Al Qaeda terrorists move the money that financed their attacks on the World Trade Center and the Pentagon on September 11.

Just last week, the President used his emergency powers to shut down a Somali conglomerate connected to Al Qaeda that was operating in several U.S. cities, including Fairfax City and Falls Church, Virginia. The Al Barakaat network used Hawalas to move funds to Somalia, Afghanistan and the Sudan—funds used by Al Qaeda.

On our first panel, Jim Sloan, Director of the Treasury Department's Financial Crimes Enforcement Network, FinCEN, will testify about the Al Barakaat case.

Mr. Sloan, thank you for joining us today.

FinCEN has been aware of the law enforcement problems raised by Hawalas for several years. In 1998, FinCEN released one of the only reports on Hawalas. FinCEN is also the agency charged with enforcing the money service business regulations effective on December 31 of this year, which now cover Hawalas as well. We look forward to hearing from Mr. Sloan about Hawalas, Al Barakaat, and the money service business regulations.

Also testifying will be Mr. Rahim Bariiek. Mr. Bariiek, I hope I pronounced that correctly. Mr. Bariiek is a Hawala broker who runs his business in northern Virginia. Mr. Bariiek provides important Hawala services to the Afghan community with family in Pakistan.

Welcome, sir. I thank you for joining us today.

This will be, I believe, the first opportunity for Congress to hear firsthand from a Hawaladar, so we appreciate your courtesy in joining us today to explain what you do.

Our final panel will include two experts on Hawalas, Professor Tarik Yousef from Georgetown University, who is a specialist in Middle Eastern and Asian banking systems; and Mr. Patrick Jost, formerly of FinCEN and coauthor of the 1998 report I referred to previously.

Thank you for joining us, gentlemen.

While much of the money that flows through the Hawala system in the United States is used for legitimate purposes, Hawalas also allow terrorists and drug dealers to smuggle money into the United States, outside the detection of the global banking system. Congress has recognized the danger of unregulated Hawalas, and moved to regulate their activities in 1994, with passage of a law requiring check-cashing businesses and informal financial enterprises like Hawalas to register with the Government; subsequent regulations also required money services businesses, including those enterprises to report suspicious transactions.

Unfortunately, the regulations implementing this statute have remained unpublished, while Hawalas continue to operate in the United States without supervision. That was the reason that I and others proposed an amendment that will expedite enforcement of Hawala regulations and give U.S. law enforcement and intelligence

authorities some of the tools they need to intercept terrorist financing before it is too late.

Targeting the financial network of terror groups like Al Qaeda will not, by itself, strike a deathblow to international terrorism. However, it will disrupt the criminal financial network supporting terrorism and it will give our law enforcement and intelligence communities a better chance of detecting and preventing terrorist activities. We must also aggressively seek out every angle that terrorists use to finance their operations. We must make sure that every cent of U.S. aid is going to the people who need it the most in developing countries and not to terrorist groups for training and arms.

In consultation with Senator Sarbanes, I intend to hold future hearings on other forms of terrorist financing, like the link between Al Qaeda and certain charities and nongovernmental organizations. Reports have surfaced that some terrorists use funds received from charities.

The war against terrorism demands that we strengthen our resolve, sharpen our skills, and redouble our efforts. It also requires that all of our agencies involved in this battle make striking at the heart of terrorists' financing a top priority, that they bring a sense of urgency to this mission, and that they coordinate with other agencies who are involved in this struggle.

I look forward to all of the testimony we will hear today and to taking the next step to cut off terrorist financing.

And again, I would like to thank our witnesses for joining us today. We are looking forward to hearing from you.

Senator Ensign.

COMMENT OF SENATOR JOHN ENSIGN

Senator ENSIGN. No opening statement, Mr. Chairman.

Senator BAYH. Just hear to listen? Well, then, Mr. Varrone, why don't I recognize you and thank you for your testimony today as well. I appreciate your courtesy in joining us.

Having said that, Mr. Sloan, I think we are going to hear from you first. Again, I want to thank you for your presence and the information you will provide us.

STATEMENT OF JAMES F. SLOAN, DIRECTOR OFFICE OF FINANCIAL CRIMES ENFORCEMENT NETWORK (FINCEN) U.S. DEPARTMENT OF THE TREASURY

Mr. SLOAN. Good afternoon and thank you, Chairman Bayh and Senator Ensign.

I want to thank you for the opportunity to discuss today the important issue of informal banking systems, specifically Hawalas, and their potential for abuse, in particular, Hawala systems in terrorist financing, drug trafficking, alien smuggling and tax evasion.

As you noted, I am joined here today by John Varrone, the Assistant Commissioner of the Office of Investigations at the U.S. Customs Service, who will be able to discuss in greater detail some of the investigative matters.

The context of today's hearing—the potential vulnerabilities of informal banking systems to terrorist financing in the wake of Sep-

tember 11—underscores the need to study the use, legal and illegal, of such systems. The Patriot Act, recently signed by the President and enacted, recognizes this need and FinCEN will be working with the Treasury Department to prepare recommendations for Congress regarding the need for any additional legislation. This requirement in the Act dovetails with FinCEN's ongoing efforts to conduct an in-depth examination of these systems in the United States, as you mentioned in your opening statement.

As the Subcommittee is aware, FinCEN is developing a comprehensive regulatory program to register and require money service businesses, or as we refer to them the MSB's, to report suspicious activity. We have been taking preliminary steps to look at these informal financial systems for several years.

Money Service Business, or MSB, is a term used to denote the subgroup of nonbank financial institutions being required to register under the Bank Secrecy Act by the end of next month, December 31. This subgroup, which includes businesses such as Hawalas, that are in effect informal money remitters, is comprised of: money transmitters, issuers of traveler's checks or money orders, sellers or redeemers of traveler's checks or money orders, check cashers and currency dealers, or exchangers.

Because there are variations on the definition of "Hawala," it is essential that this and similar systems be thoroughly examined and understood. Towards this end, FinCEN has, and continues, to participate in several initiatives. For example, the Financial Action Task Force regional body in Asia, the Asia Pacific Group, is undertaking a study of informal banking practices in Asia. The APG project began in 1999 and has focused on investigative case examples from member countries, including the United States, which demonstrate how these systems are used and whether there has been evidence of the movement of the proceeds of crime utilizing these systems.

The APG project group met most recently just a few weeks ago, after the events of September 11. Case examples surfaced to date show the continued use of Hawala-type systems in moving funds associated with such crimes as drug trafficking, alien smuggling, kidnapping, customs fraud and tax evasion. Anecdotal information has also been presented in the APG process on the use of such systems to fund terrorist activity. Other studies, such as one done by the Dutch Ministry of Justice in 1999, indicate that Hawala was, in fact, used to support terrorism in the Kashmir region in the early 1990's.

In 1999, a report to which you referred was prepared by FinCEN, in fact, prepared by one of your subsequent witnesses, Mr. Jost, which described typical Hawala transactions and discussed how Hawala is used to facilitate money laundering. Mr. Jost's study noted that this method of monetary value transmission is an ancient system originating in South Asia. Today it may be used around the world to conduct legitimate remittances. When I say legitimate, I am referring to remittances that may be those of expatriate workers who use a Hawala system believing that they are sending money quickly and reliably to family members in their home country. And again, I understand you have a witness who will be discussing that exact issue.

Earlier this year, FinCEN began a comprehensive study of Hawalas and other informal value transfer systems as they operate inside the United States. The findings of that study will feed into a broader joint project on Hawalas and similar systems with FinCEN's counterpart in the United Kingdom, the National Criminal Intelligence Service.

The National Institute of Justice may also provide a grant to support the international scope of the project. The project's objective is to document, based on actual law enforcement evidence from the United States and around the world, just how Hawalas and other such systems are possibly being used as conduits for terrorist financing and other illegal activity. As FinCEN works with this Committee to address the requirements of the Patriot Act, I am confident that its work to date on this issue will be a valuable component of the study mandated by the Act.

As the Subcommittee knows, FinCEN in general, has proceeded very deliberately with its money service business program. We have taken this approach for a number of reasons.

First, money service businesses have not been regulated at the Federal level and therefore, it has taken time to identify and to understand the various money service business sectors and how they operate.

Second, many money service businesses are very small and serve ethnic communities, making the task of shaping appropriate regulatory programs even more complex.

And finally, because of the absence of a Federal regulatory infrastructure developing a positive working relationship like the one which currently exists between regulators and the depository institutions will take time.

Having said this, Mr. Chairman, one of the first actions I undertook when I became Director of FinCEN was to expedite the process of issuing the final MSB regulations. It was clear that until the money service businesses were brought into a Federally regulated BSA program, law enforcement could not begin to take effective steps aimed at reducing the vulnerabilities of money service businesses to financial crime. Within months of assuming my office, FinCEN had issued two regulations—registration and suspicious activity reporting. The first regulation, as I mentioned, requires the principals of all MSB's to register by the end of next month. The second would require money transmitters, issuers and sellers of traveler's checks and money orders, and the U.S. Postal Service, to report suspicious activity transactions shortly thereafter.

To ensure that money service businesses are familiar with these new requirements and to develop better demographics about who and where many of the smaller, independent money service businesses, including Hawalas, are located, we have been engaged in an extensive education and outreach program over the past year. FinCEN entered into this multifaceted contract with Burson-Marsteller, a leading public relations firm with extensive experience in conducting such nationwide campaigns. FinCEN, in conjunction with Burson-Marsteller, intends to continue this education effort throughout the coming year. Working with the Internal Revenue Service's Office of Examination, we hope to alert all money service businesses to their registration and reporting obligations

under these new rules. If necessary, the regulations will provide us with the use of penalties against money service businesses if they fail to comply with the regulations. Our primary interest, however, is encouraging voluntary compliance with these businesses.

In conclusion, Mr. Chairman, we have already begun to develop a comprehensive regulatory program for money service businesses. We are now involved in plans to learn more about these varied businesses and their different needs, including Hawalas. We will keep the Subcommittee and the Committee well informed on a regular basis about our findings as we work with other agencies and organizations to provide effective Federal regulation and oversight of the money service businesses. Again, I appreciate the opportunity to testify and look forward to your questions.

Thank you.

Senator BAYH. Thank you, Mr. Sloan.

Mr. Varrone, before I turn to you, I would like to recognize the presence of our Chairman, Senator Sarbanes, and ask if he would like to make any comments at this time.

Senator SARBANES. Mr. Chairman, why don't I defer until Mr. Varrone completes his statement.

Senator BAYH. Very good, Mr. Chairman.

Mr. Varrone.

**STATEMENT OF JOHN VARRONE
ASSISTANT COMMISSIONER, OFFICE OF INVESTIGATIONS
U.S. CUSTOMS SERVICE**

Mr. VARRONE. Chairman Bayh and Members of the Committee, thank you for the opportunity to testify before you today.

First of all, my testimony is in draft form. We did not have enough time to get it formally cleared.

The U.S. Customs Service has long served as one of the premier money laundering investigative agencies in Federal law enforcement. For years, the agency has worked to disrupt and dismantle the money laundering techniques used by the world's drug cartels to launder narcotics proceeds.

Our criminal investigators are well trained in all types of financial crimes. Using a systems-based approach, we target not only the individuals involved in money laundering and those who finance and fund criminal activity, but also the networks they use to carry out their criminal activities.

Now, we are turning this expertise full force on terrorist organizations and their financial backers and supporters, and against those who help move money for terrorists.

Three weeks ago, Customs Commissioner Robert Bonner joined Deputy Secretary of the Treasury Kenneth Dam, Treasury Under Secretary of Enforcement Jimmy Gurulé, and Assistant Attorney General Michael Chertoff, in the announcing of Operation Green Quest, a new, multiagency financial enforcement initiative.

Green Quest is targeted against terrorist organizations. It is aimed at freezing and seizing the accounts and assets of terrorist organizations; not just those groups associated with the attacks of September 11, but all the terrorist entities that pose a threat to the United States and to all nations of the world.

Green Quest brings the money laundering investigative expertise of the Treasury against these to bear on terrorist networks and their financial supporters. It is led by the U.S. Customs Service, and includes the Internal Revenue Service, the Secret Service, Postal Inspectors, Treasury's Office of Foreign Asset Control, and the Financial Crimes Enforcement Network, FinCEN.

The operation also draws on the new Foreign Terrorist Asset Tracking Center and is supported by the FBI and Federal prosecutors from the Criminal Division of the Department of Justice.

Green Quest seeks to combine our strengths in a more effective way, by melding the intelligence gathering abilities of FinCEN with the investigative expertise of agencies like U.S. Customs, IRS and the U.S. Secret Service.

A senior U.S. Customs special agent serves as the Director of Operation Green Quest and the Deputy is a supervisory Internal Revenue criminal investigative supervisory agent.

Green Quest operates with two components—a command and coordination center here at Customs headquarters in Washington, and a field task force made up of dedicated and highly experienced agents in New York.

These agents have been drawn from a long-term, highly successful money laundering initiative based in New York, known as Operation El Dorado. Drawing on the expertise of Customs and IRS agents who have worked money laundering cases in New York and elsewhere, Green Quest will supply the investigative muscle and expertise to identify, freeze, and seize the accounts and assets of terrorist organizations and their supporters.

This operation will also generate new information on sources of terrorist funding and the systems used to fund terrorist activities. In short, Operation Green Quest will deprive terrorist organizations of the financial means to carry out their activities in the United States and elsewhere in the world.

One week ago today, Green Quest delivered the first major blow against terrorist financing, in a coordinated enforcement action against the global money laundering transfer network known as Al Barakaat. Acting on intelligence, and equipped with Federal search warrants and blocking orders, Federal agents conducted raids on a number of affiliated U.S. companies of Al Barakaat, which had been identified as the source of funding for Osama bin Laden's Al Qaeda organization and other terrorist groups.

The raids took place in six cities across the country—Boston, Falls Church and Alexandria, Virginia, Columbus, Ohio, Minneapolis and Seattle. Eight Al Barakaat businesses were shut down or searched, their assets frozen and voluminous evidence was seized. Since those raids, additional searches of U.S. firms affiliated with Al Barakaat have also taken place.

These are the first of what we expect to be many law enforcement actions by the highly-trained and experienced investigators working under Operation Green Quest. We will pursue all avenues of terrorist funding—those that exploit our global banking system, those that manifest themselves through the more informal Hawala network, and other insidious methods, including the use of international trade.

We suspect terrorist organizations of employing trade-based schemes to mask funding sources. What does that mean? Terrorist front companies might overvalue or undervalue merchandise. They might double invoice. They might fabricate shipments altogether.

It is no coincidence that the U.S. Treasury Department now has three Yemen-based honey businesses on the list of companies tied to Osama bin Laden.

Customs enjoys a longstanding expertise in identifying trade-based money laundering schemes also. Our dual mission to facilitate trade and enforce laws gives us access to vast amounts of financial and trade data. In the trade data area, we can look at the import and export history of thousands of companies. We can cross-reference that information against other records and various law enforcement databases through special applications developed by Customs. That allows us to spot trends and anomalies in the particular company or a particular industry.

Terrorists may resort to simpler methods of money laundering, such as Bulk Cash Smuggling. New antimoney laundering laws enacted by Congress and signed by President Bush strengthen the laws against those who smuggle concealed cash out of the country, above the \$10,000 allowable amount.

Prior to this new legislation, the smuggling of cash was mainly a reportable offense. The new statute provides for criminal forfeiture of the property involved, and outlines more stringent penalties against violators.

Customs has taken its own, aggressive measures to combat bulk cash smuggling into and out of the United States. Outbound inspections alone of persons and vehicles have resulted in currency seizures over the past 6 years of approximately \$340 million.

Again, whatever the terrorist funding source may be, we will pursue it. The combined strength of Federal law enforcement, as manifested in Operation Green Quest, makes for a formidable defense along this crucial front in our global war on terrorism. The active support of the Congress, as demonstrated by this hearing today, lends yet further strength to that effort.

Mr. Chairman, thank you for the opportunity to testify. I look forward to answering any questions that you or the Subcommittee may have.

Senator BAYH. Thank you, Mr. Varrone.

I would now like to recognize the Chairman of the Banking Committee, Senator Sarbanes, for his comments.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Well, Mr. Chairman, I want to commend you for holding this afternoon's hearing on this very important subject of Hawalas and other underground financing mechanisms that can be used by terrorists to accomplish their purposes.

I think any effort to find and shut down the sources of terrorist funding must include an examination of those informal money transmittal operations, and today's hearing contributes to that.

Until recently, I think I, like most Americans, was really not very cognizant of Hawala, the ancient and informal system that is the prevalent form of money transmittal in the Middle East and South Asia.

In the aftermath of September 11, we have learned that Osama bin Laden's terrorist network not only exploited vulnerabilities in the regulatory and enforcement procedures in the formal financial system, but also used the informal system to move significant amounts of cash around the world, without leaving an electronic fingerprint or paper.

Hawalas facilitate money transfers in areas around the globe where banking institutions are inaccessible. But the system's relative anonymity and lack of legal record-keeping makes it an attractive mechanism for drug traffickers, weapons brokers, tax evaders, corrupt officials, and terrorists seeking to move money surreptitiously.

Since little is known about Hawalas, this informal system poses difficulties for law enforcement officials seeking to track the funds utilized for these various purposes.

On September 26, we received testimony before this Committee warning that failure to address informal money transmitting businesses and antimoney laundering efforts would create a substantial vulnerability by which terrorists could anonymously obtain cash below the radar screen of our financial services regulatory system.

That is when we joined together in moving through the antimoney laundering legislation, which put an array of tools necessary to trace and interdict the funds on which terrorists like bin Laden rely to pay for their operations.

It was Senator Bayh's very important amendment to that legislation, and I really commend you for that effort. I think it markedly strengthened the bill. And that amendment made it clear that underground money transmitters such as Hawalas are subject to the same record-keeping rules and the same penalties for violating those rules as above-ground recognized money transmitters.

It also directs the Secretary of the Treasury to report to Congress no later than October 26 of next year, on the need for additional legislative or regulatory controls relating to the underground banking system. The bill also clarifies that operators of money transmitter businesses can be prosecuted under Federal law for operating an illegal money transmitting business if they do not have a required State license.

Prior to this new legislation, Federal officials rarely prosecuted Hawala operators because the charge of operating an unlicensed money transmittal business was difficult to prove.

So, Mr. Chairman, I really appreciate what you have done in this area and the follow-up that is represented by this hearing. I understand that Treasury has reconsidered its decision to delay the effective date of regulations requiring that money service businesses, including Hawalas, register and begin reporting suspicious activities. And I certainly welcome action in this area. Such regulations will go a long way in helping law enforcement to better understand Hawalas and to trace funds used to finance terrorist activities.

I just want to say that I think that this issue of money laundering is one that the Committee obviously intends to stay with in terms of overseeing now the implementation of the legislation which we only recently passed, both for its vigorous execution and also in case of other loopholes that may continue to exist which we need to address in order to close them up.

I appreciate these witnesses and those to follow them for being here today and your leadership in holding this hearing.

Senator BAYH. Thank you, Senator Sarbanes.

Before you arrived, I took the opportunity to thank you for your leadership in enacting the money laundering legislation in what must be record time in face of the threat that our country faces. And that is a testimony to your ability to work through very difficult issues in a very expeditious manner. Also, in allowing us to focus on the informal organizations that we addressed, both in that legislation and here today.

I thank you for your leadership and support in this effort.

Senator SARBANES. I appreciate that very much. I would note that we brought that legislation out on a 21 to nothing vote in the Committee. So, we had very strong bipartisan support. We received a number of suggestions from Members of the Committee, as I have already indicated, not the least of which was, of course, your efforts dealing specifically with the Hawalas.

I think the Committee can take a good deal of satisfaction from having done a very good legislative job with that legislation. I think because we were so united, and also because we worked through it so carefully, it was able to move through the Senate and sustain itself in conference, and it is now into law.

Thank you very much.

Senator BAYH. Well, thank you, Mr. Chairman.

Senator ENSIGN, before we begin questions, would you like to make any comments?

Senator ENSIGN. No, thank you, Mr. Chairman.

Senator BAYH. Okay. Very good. We are going to enforce the 5 minute rule here. We will all try and live with that. If we go a little bit over, I hope you will understand, and if there is the need for an additional round of questioning, we will take a little extra time.

Gentlemen, I am going to have three different lines of questioning. The first one, both for Mr. Sloan and Mr. Varrone, relates to why no action was taken against Al Barakaat until last week, which raises the issue of the priority that was placed on this activity, cracking down on this kind of activity, and the coordination among different agencies involved in our effort to fight money laundering. That is going to be the first line of questioning for both of you.

The second, Mr. Sloan, will relate to the issue of the regulations. As you mentioned, it was one of your first acts upon assuming your position. I commend you for that. But I do want to ask about why it took so long, both before and then the timing thereafter, it raises issues of the balance between protecting the public from the consequences of money laundering, on the one hand, versus the convenience and ramifications for the regulated community on the other. You mentioned some of those factors in your testimony.

Then the third line of questioning, which should be very brief, is basically, also for you, Mr. Sloan. Where do we go from here in terms of the report that the legislation calls for. Who is going to be in charge, if you have already selected someone? When you think there might be a draft report?

And my own hope is that it will go beyond and not just be a mere duplication of the 1998 that you spoke to and I spoke to in both of our prepared remarks.

To begin, Mr. Sloan, you must be one of the foremost experts on fighting terrorism in the country. I just thought it might bear sharing with the Committee and for the record your qualifications. You were a high-ranking antiterrorism expert with the Secret Service. You, in that capacity, served as the Secret Service's representative to the Counterterrorism Strategy Group, CSG. Since becoming Director of FinCEN, I understand you occasionally have continued to participate in CSG's deliberations.

I would like to say for the record—I am not sure I need you to corroborate this—but we have been told by a former member of the NCS that the NCS placed a very high priority on combatting Al Qaeda and that FinCEN, the Customs Service, and other arms of the Treasury law enforcement knew that Al Barakaat was linked to Osama bin Laden and Al Qaeda as far back as 1999. Do you want to comment on that?

Mr. SLOAN. I am also familiar with the issues that were raised this morning in the press.

I think it is very, very important that the Members of this Committee fully understand exactly the chronology of events from 1999 until today, assuming that that is responsive to your question.

But given the fact that, at least from my perspective, and we do not investigate anything at FinCEN. We provide information to law enforcement. But given the sources of our information, both the domestic financial information and the privacy concerns associated with it, and maybe any associated intelligence information that accompanied that, I think it is important that we discuss those areas in a closed session rather than an open session.

Senator BAYH. Well, if we need to get into particulars, Mr. Sloan, I would agree with you.

I was just stating for the record that the NSC placed a priority on fighting Al Qaeda. I do not think that that is compromising anything of an intelligence nature. And that we were generally aware of a link between Al Barakaat and Al Qaeda as far back as 1999. I do not intend to get any more specific than that.

Mr. SLOAN. Yes, the link from the FinCEN perspective clearly comes from our analysis of the financial data, accompanied by other data. And for me to discuss how we worked that link would be probably inappropriate in an open hearing.

Senator BAYH. I do not intend to get into how you worked the link, just the fact that we were aware of the link.

Mr. SLOAN. The answer is that we have been working for some time in that area, yes.

Senator BAYH. Thank you, Mr. Sloan.

When did the first suspicious activity reports, when were they filed with regard to Al Barakaat? Not what they involved. I do not want to get into that, but just when they were filed.

Mr. SLOAN. I am not sure that I would talk specifically about suspicious activity reports, mentioning Al Barakaat specifically. But we have been monitoring suspicious activity reporting in this area for several months prior to September 11. I can get the exact date and I can provide that.

Senator BAYH. As far back as a year, maybe?

Mr. SLOAN. Perhaps. I would have to look back on exact dates in that regard.

Senator BAYH. When were these concerns relayed to the other law enforcement authorities and the investigative authorities—Customs, IRS, FBI?

Mr. SLOAN. The information that we provide to those agencies is done on a continuous basis.

Senator BAYH. Are you talking about contemporaneous with your first receiving the reports?

Mr. SLOAN. We report information to law enforcement.

The nature of FinCEN is that law enforcement actually resides at FinCEN, and there are law enforcement representatives of every agency there to receive information as it is developed.

Again, it would be difficult for me to talk about the specific elements of the information we provided to any one agency, but the fact remains that we would usually provide information in a contemporaneous way.

Senator BAYH. Again, I do not want to get into the details of the reports and that kind of thing.

Mr. SLOAN. Right.

Senator BAYH. I am just interested in the timing.

Mr. SLOAN. As they were conducting their investigations, we would continue to provide them—

Senator BAYH. Do you get the reports and you just as a matter of course, in a fairly short order of time—

Mr. SLOAN. Well, certainly any report, whether it is a drug case or a terrorist case or a fraud case, we would do it both proactively and in response to requests. And as the investigations continued, if more information was required, we would reactively search the data base.

Senator BAYH. I guess as I alerted you to in my initial comments, my question is, since we had been investigating this for several months, possibly up to a year before the events of September 11, and this had been shared with the other agencies, why were no arrests put into effect until last week?

Mr. SLOAN. Again, we are not an investigative agency and I am not sure that the information would be something even to this date that led specifically to arrests, except for one that I understand occurred in Boston last Wednesday as an unregistered money remitter. Perhaps Mr. Varrone could speak to the operational aspects of the case.

Senator BAYH. Mr. Varrone, do you want to address that for us?

Mr. VARRONE. I think it is fair to say that the development of any criminal case and the development of probable cause, as everyone knows, to get you to a threshold of where you can take an enforcement action, is largely dependent on a lot of different pieces of information.

The pieces that FinCEN collects, the analysis that they do, the passing on to all of law enforcement, and in the appropriate law enforcement agency, having the jurisdiction to conduct that investigation. Recently, as I stated in my testimony, is that we have initiated Operation Green Quest to do just that. So this jurisdiction will become a little bit clearer.

But, yes, there were two arrests, one that was a provisional arrest up in Canada. Actually, he surrendered with an attorney. But the other arrest did occur in Boston.

I think it is fair to say that the collection of intelligence information does not always lead to an arrest or an enforcement action. It leads us down that path, and hopefully, we can turn that into some success.

Senator BAYH. I have already exceeded my time. I just have one more question before turning to my colleagues, and then perhaps I will follow up when they are concluded.

Mr. Varrone, I would like to follow up with one additional question. Both of you get a lot of the suspicious activity reports, probably more than you can handle in a timely fashion. There must be some way to prioritize these. I guess what I am driving at here, since we were generally—obviously fighting Al Qaeda had become a priority. We were generally aware of the links between Al Barakaat and Al Qaeda.

The fact that there were suspicious activity reports involving Al Barakaat, shouldn't that move that up the priority list? Didn't that raise red flags, Mr. Varrone, to expedite the enforcement actions?

Mr. VARRONE. If that were the case, if it was presented to the U.S. Customs Service, Office of Investigations, as a potential lead of a suspect terrorist organization a year, 2 years ago, that would have clearly been under the jurisdiction of the FBI. The U.S. Customs Service would not pursue that lead. We would anticipate the FBI to pursue that lead because of just clear jurisdiction.

The creation of Operation Green Quest, this multiagency mechanism, would hopefully make sure that the more timely evaluation and passing of those type of cases between agencies for appropriate review or investigation.

Senator BAYH. I will turn to my colleagues and I will follow up a little bit.

We have all learned a lot since September 11. What I hear you telling me is that perhaps there were jurisdictional lines blurred beforehand. But we are attempting to clarify those lines now so that we can expedite and prioritize. We can identify cases that should be a top priority and expedite their treatment in the future. Is that what you are telling me, Mr. Varrone?

Mr. VARRONE. I would say jurisdiction, agency jurisdiction, and particularly if the information came forth that there was a suspect terrorist organization, specifically a suspect terrorist organization, the primary jurisdiction would be the FBI and they would investigate that. The Customs Service would, prior to September 11, have not investigated that case. They would have expected that the FBI would.

Senator BAYH. That was not the case here, or was the FBI aware of this and did not act upon it?

Mr. VARRONE. I do not know what the FBI was aware of relative to the process.

Mr. SLOAN. Mr. Chairman, if I could just add one other thing.

Absent being able to discuss more openly with you the circumstances and the quality and the type of information that we provided and shared, shared and share, I really need to underscore another important point.

Senator BAYH. I understand.

Mr. SLOAN. We are but one small arrow in a large quiver. The information that FinCEN has provided over the last period of time, either prior to or subsequent to September 11, is almost useless without other information sort of augmenting it in a way that makes sense to the investigators of terror or drugs, for that matter.

So, I just want to make certain that we are not building up some expectation here that the information that we may have provided—and I would like you to know exactly what it is at some point—would have been the magic bullet or the silver bullet that would have been the key to a particular investigation. In fact, I think it is fair to say that some of the activities that occurred by the Customs and IRS through Green Quest last Wednesday were probably in furtherance of the same investigations that were the subject of some of the activity that you are talking about today.

Senator BAYH. Thank you, Mr. Sloan.

Senator ENSIGN.

Senator ENSIGN. Thank you, Mr. Chairman.

Just to try to get a little more understanding for my own edification, do you have any handle on the dollar volume that has gone through these Hawalas, the total dollar volume?

Mr. SLOAN. I do not have the total dollar figures here today.

Senator ENSIGN. Do you have any estimates?

Mr. SLOAN. Unlike drug movement for terrorist activity, it would be much less. Interestingly, the terrorist activity patterns that we may see, to the degree that we develop any analysis in that regard, less than perhaps drug money.

Senator ENSIGN. Do we have any total dollar—

Mr. SLOAN. I do not have total dollar figures here.

Senator ENSIGN. I do not mean just on the terrorist activity. I mean total, and then what percentage of that would be approximately.

Mr. SLOAN. Through the Hawalas, I do not have a figure in that regard.

Senator ENSIGN. Okay. We have a better handle, you are saying, on the drug money that is going through than we do of the—

Mr. SLOAN. From analyzing data relative to drug activity, drug activity was probably the principal reason that a lot of the analysis we did was being done, in spite of the fact that we were also engaged in some terrorist analysis.

But in the drug activity, for instance, I think the last estimate in the United States was \$63 billion of 5, 10, 20, 50 dollar bills off the streets of the United States into the financial system and back to the people who supply the drugs to the United States. That is a lot of money being funneled down into the financial system.

In the case of terrorist activity, it is almost in reverse, where you might have a lot of money coming down to just very little money for utilization by an individual who might be involved in terrorist activity.

Senator ENSIGN. How large are most of the transactions, then? Are most of them small transactions?

Mr. SLOAN. Well, the suspicious activity reporting from financial institutions today do not get reported by law below a \$5,000 aggregate in 1 day. Now that does not mean that they cannot report less

than that. But that is the requirement of depository institutions, \$5,000 in the aggregate on a business day.

Senator ENSIGN. Do you have any idea of how much of the money that is involved with the drugs, is also involved with the terrorism? Do we have that, either one of you?

Mr. SLOAN. I do not have that estimate.

Senator ENSIGN. Have we established ties there at all?

Mr. SLOAN. Yes.

Senator ENSIGN. Okay. We have. And maybe qualitatively, not quantitatively.

Mr. SLOAN. Correct.

Senator ENSIGN. Is it fairly substantial?

Mr. SLOAN. Without the figures, I probably—relative to the rest of the activity, I would have to get those figures. But I can get those, to the degree that we have them.

Senator ENSIGN. Okay.

Mr. SLOAN. Yes.

Senator ENSIGN. I would appreciate that.

Mr. Chairman, that is all I have.

Senator BAYH. Thank you, Senator.

Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

Mr. Chairman, I have three questions. And then I have a preliminary question. If I use up my 5 minutes before I ask my three questions, what happens?

Senator BAYH. The Chair would be very happy to grant you an extension.

[Laughter.]

This is an inside joke. I have tried that technique before.

[Laughter.]

I am not in a very good position to object, Mr. Chairman.

[Laughter.]

Senator SARBANES. Do we regard Hawalas as having a legitimate function for money transfer services?

Mr. SLOAN. The quick answer is, yes, Senator, there are legitimate Hawalas.

Senator SARBANES. How do we distinguish between the misuse of a Hawala and the legitimate function of a Hawala?

Mr. SLOAN. I think you will hear later today from a gentleman who is engaged in Hawala-type activity. But from our perspective, the concern we would have is if someone offers themselves as a wire remittance operation—in other words, they are going to get money from point A to point B on your behalf, and they do not register under the new rules Federally at the end of next month, or in 45 States which now have State rules, then they are in violation of the law because they have not registered as a wire remitter, whether they are a Hawala or not. But the experience has been that many of the Hawala dealers, and using that term loosely, have not registered in that area and, thus, are violating the law.

Senator SARBANES. Do you intend to put these regulations into effect by the end of December?

Mr. SLOAN. The registration requirement takes effect midnight, December 31, yes.

Senator SARBANES. That was the one that you had delayed, but subsequently moved forward. Is that correct?

Mr. SLOAN. It had always been scheduled for December 31. For a lot of reasons, it seemed good prior to September 11, it was going to be delayed, but the delay never took effect. It was never part of the *Federal Register*.

Although it was listed in the Administration's money laundering strategy as a possibility, the events of September 11 stopped that delay action. So the rule, as I issued it on February 2000, remained in effect for December 31.

Senator SARBANES. Was that carrying out the Bank Secrecy Act?

Mr. SLOAN. Yes, sir.

Senator SARBANES. When was that passed?

Mr. SLOAN. I think the amendment that affected this was in 1994, I understand.

Senator SARBANES. So here we were, 7 years later, without the regulations to implement the Act. Is that correct?

Mr. SLOAN. Absolutely. You are absolutely correct. I took office at the end of April 1999, and made as my top regulatory priority the issuance of the MSB regs, which were delivered to Treasury by the end of that summer, and then announced with the money laundering strategy of 2000, at the Treasury Department, in February 2000. So it became a priority. It got on the fast track as soon as I became Director, and is now going to be the law effective at the end of next month. Unfortunately, I cannot speak for anything prior to 1999.

Senator SARBANES. I understand.

Mr. Chairman, I think that this kind of hearing and other oversight hearings that we will need to hold should help to ensure that we do not have these kind of gaps in carrying through the system.

What good does it do if we pass the legislation and then it does not get implemented? Obviously, we need to take some responsibility because I guess we should have monitored, obviously, we should have monitored it more closely.

But, on the other hand, I think we ought to send a clear message downtown that we are going to stay on top of this issue as we proceed ahead, including to legislation that we just passed in terms of its implementation.

Let me ask this question. What steps is Treasury taking to assure that underground money transmitters are given adequate notice of the registration rules so that any application of penalties to those transmitters would be effective? I am really kind of asking what specific steps is Treasury taking to reach these businesses?

Mr. SLOAN. Well, whether they are the informal banking systems or they are the utilization of the traditional—the Western Unions, the American Express traveler's checks, or even the Postal Service, for that matter—we discovered in moving up to the enactment of the rule, which takes effect next month, that there are roughly between 160,000 to 200,000 entities that would be affected by the money service business regs. That includes, of course, 37,000 postal facilities.

We, together with the Treasury Department, hired the services—and I mentioned this, unfortunately, in my opening statement and I think you may have not yet arrived.

Senator SARBANES. I may have not yet arrived.

Mr. SLOAN. But we have acquired the services for the past year and continue for the next year the services of a pretty renowned public relations firm known as Burson-Marsteller.

And they have with us, and with the IRS, by the way, who does the exam functions for these money service businesses, has been working closely in focus groups around the country to identify and to spread the word, if you will, that these regulations are going to take effect.

Now if we are talking about an underground operation that is not likely to register to begin with, they are probably not likely to register at the end of the day, either.

But we are certainly of the belief that our public relations outreach program coordinated by the Office of Public Education at Treasury, is reaching the largest, widest universe possible in this regard.

Senator SARBANES. Now how are you doing that? How is it you are communicating?

Mr. SLOAN. Well, for instance, FinCEN personnel, Office of Public Outreach Personnel, together with public relations firms, have set up focus groups in various cities around the country, in which first we have gone in to identify the universe. Then, we have gone in to identify what guidance might be necessary for this universe to register and to ultimately report suspicious activities.

By the way, we have been meeting with most, if not all, of the trade groups associated with money service businesses, as we call them, and the law enforcement community, which is another important partner. In fact, I have brought all of the major money transmission companies and money service providers into FinCEN to meet with the law enforcement community to try and make certain that whatever we put out into the field for the purposes of suspicious activity reporting, A, makes sense to law enforcement and, B, is not overly burdensome to the industry, but still accomplishes the intended mission.

Senator SARBANES. Now these Hawalas, presumably—if I could just pursue this for a moment, Mr. Chairman, you can identify geographic areas in our country where they function heavily, can't you? Certain immigrant communities in various cities or in other locations. Would that be correct?

Mr. SLOAN. I think the traditional law enforcement community has been able to do that for us. And to the degree that we can reach out to that community, we are doing that as well.

Senator SARBANES. How do you reach out to them? How do you let them know that they need to register?

Mr. SLOAN. The specific Hawalas, obviously, we are not going to reach them if they intend to remain underground. But the public relations responsibilities that the firm and if FinCEN and the Office of Public Education is to reach out in trade publications—some of the Hawalas—

Senator SARBANES. What language are you reaching out in?

Mr. SLOAN. All languages. For instance, we have dispatched people to Ria Via, a company that is predominantly Spanish wire remittance, just to work with them and to make sure that we have educated their transmission points of sale.

Clearly, I do not have a list of all the languages that we are dealing in, but I do know that we have relied very heavily upon the skills of the Office of Public Education and the public relations outreach to reach as wide a universe as possible in this regard.

Senator SARBANES. Well, we may need to pursue this further. I do not know. It seems to me that you need to have a very focused effort in an identifiable community where you know these kinds of activities are taking place amongst a certain population. And the word really needs to move through those communities that a different day is here.

Mr. SLOAN. The registration itself, Senator, will probably cover about 8,000 principal transmitters, the big transmitters, if you will, the American Express, the Western Union, the traveler's check companies and the post office, of course. They are the ones who will be required to then, by law, register their points of sale for the purposes of registration. In other words, there is an assumption that if you are going to use—if I may back up a second.

The traditional Hawala description usually did not have as part of its equation the utilization of a modern wire transmission system. It was usually, as this chart indicates—and of course this is not my chart, so I do not want to speak to it—but as this chart indicates, it was probably by phone call or e-mail and utilization of trust to get the value of the money from one point to another.

As the FinCEN report in 1998 indicated, the traditional definition of Hawala was money transfer without money movement.

Senator SARBANES. Right.

Mr. SLOAN. So the target of most of the money service business that we are referring to would be people who actually use a system to move money from point A to point B, like a Western Union or a bank wire or something of that nature.

The Hawalas, if they offer themselves as remittance, must also register. But to the degree that we would reach them through the principals is unlikely. So that we are going to have to go back and identify through law enforcement sources Hawala activity that does not choose to register. And if they do not register, then they are in violation of the law.

Senator SARBANES. What is the penalty?

Mr. SLOAN. The penalty is, I think, up to \$5,000 a day for not registering. Now, of course, there is also criminal penalties in some instances for not registering that law enforcement could bring. But from our purposes, \$5,000 a day for not registering.

Senator SARBANES. Thank you, Mr. Chairman.

Senator BAYH. Thank you, Mr. Chairman. Let me just say that I share your concern for our continuing oversight to ensure that we do not see a repetition of what happened following 1994.

I think all of us have a heightened appreciation for the importance of implementing this new legislation and it is our responsibility as much as the Administration's to see that that is done. So, I think your emphasis is entirely correct.

I am going to have just a second round of questions here, gentlemen. Mr. Sloan, I appreciated what you said about not creating, I think, expectations. I do not want to cast aspersions or raise doubts or that sort of thing. And I am done with my line of questioning

about what we knew, when we knew it, why things came to a head last week.

If it is possible, I would like to ask if you and Mr. Varrone would stay until after the next two panels so that we could go for 10 minutes into Executive Session and perhaps get into a level of specificity that is not appropriate in this forum, just to wrap all this up so it is not just kind of hanging out there.

Mr. SLOAN. Absolutely. I would be delighted to. I think that that would be important, sir.

Senator BAYH. Okay. I appreciate your courtesy in doing that. Gentlemen, just a couple of other things and then, Mr. Bariek, we are looking forward to hearing from you.

Mr. Sloan, I think you addressed some of this in response to Senator Sarbanes' questions with regard to the timing of the regulations becoming effective. Certainly it is no responsibility of yours, the 5 year delay before you took office. Obviously, there was something taking place there that led this to not being on the fastest of tracks. You came in and tried to expedite things.

Let me ask you, it has been suggested to me that the regulations were promulgated immediately, but the effective date was put off 2 years. And in the money laundering strategy, it was at least contemplated putting off the effective date for another 6 months. Why the delay in the effective date?

Mr. SLOAN. Well, Senator, the effective date that takes effect next month was set actually in February 2000. Given the universe that I described to Chairman Sarbanes, it seemed to make sense from all of the experts that we had spoken to, that to educate, and to continue to educate, 160,000 to 200,000 entities that had never been regulated by the Federal Government, let alone perhaps even State or local government, that English may be the second language in many cases, that were scattered all over the United States.

To educate a universe that large, it was felt that we probably needed every minute of the 19 or 20 months that we propose for education purposes.

We could not begin the education until the rules were announced. And the week after the rules were announced, we began the process through the public relations firm, the Office of Public Education, to begin the process. And that process has been ongoing since that day.

Now there are other issues, too, that I hope I am not boring you with, but I will tell you. We are not the only player in this equation. We rely very heavily, of course, on the forms that are required for the registration, both registration and suspicious activity reporting, that, as you may know, go to the IRS at the Detroit computing center.

We rely very heavily on the Internal Revenue Service's Office of Examination for the examination functions necessary to enforce compliance with these regulations.

So it is not dissimilar to perhaps being an orchestra leader here trying to bring all the pieces together and make sure they all work come December 31.

We are racing to that deadline. In fact, we announced the registration formally in the *Federal Register*, 4 weeks ago. We intend

to make it public for the purposes of registration I think next week. This is a major step in the right direction.

But I am not sure, even with the speed I wanted to have it take, we could have done it many months sooner, given the time that I got involved in it.

Now, I cannot speak obviously prior to May 1999. But I examined it in every which way, and maybe we could have saved 2 or 3 months, but not much more than that.

Senator BAYH. Thank you, Mr. Sloan. I compliment you for the new sense of urgency you brought to this. I understand the concern about compliance when we are dealing with small businesses and unregulated community, some people whose first language is not English, and so forth. But let me just put a fine point on it and let you respond.

The reason for my first questions about the NSC focusing on Al Qaeda and the connections to Al Barakaat and the emerging knowledge that perhaps Hawalas were being utilized pursuant to those kind of activities, shouldn't that have tipped the balance in favor of expeditious enforcement and then kind of worry about the compliance later on, on the part of innocent folks who might have gotten caught up in that?

Mr. SLOAN. And, quite frankly, truth be known, that may be, in fact, what happens come December 31. We are going to start the compliance and we probably have to rely on some good faith rather than be too heavy-handed to get this thing out the door. There is no question. I think that that is a fair philosophy to take. Whether or not we should have done that 2 months earlier as opposed to 2 months later, I think I could probably discuss with you.

Senator BAYH. Thank you, Mr. Sloan.

My last line of questioning, but I did have one quick additional question for Mr. Varrone.

With regard to the report required by the legislation, I think that is a year from the legislation being signed—so that would be, what? A year from October.

Mr. SLOAN. October 26.

Senator BAYH. The date is etched indelibly in your mind, I can tell.

Mr. SLOAN. Yes, sir, very much so.

Senator BAYH. Have you identified who's going to be in charge?

Mr. SLOAN. As I previously mentioned to your staff, we have identified, I want to say—I do not want to sound like I am being unfair—but the working B level, both within FinCEN, we are trying to put together the right people that can be our partners in the law enforcement community, to include, I might add, the international community.

By coincidence, a week after the enactment of the Patriot Act, we met with all of our partners in the international financial intelligence unit environment, called the Egmont Group, and we said to them, we may need your help in this regard, too, to help feed into a project that we are going to be undertaking.

Once we have our side of the equation together, we are going to be coming to your staff and indicating that we would like to make certain that we work together so that, A, the report shows up on time and, B, it is what was intended by the legislation.

Senator BAYH. Thank you, Mr. Sloan. I appreciate that. And obviously, anything that we can do about where we go from here, what additional tools are necessary for you folks to do your job, we would be particularly interested in.

Mr. SLOAN. Thank you, Mr. Chairman.

Senator BAYH. Mr. Varrone, just quickly, two very brief questions for you.

We focused on Al Barakaat. There have been reports regarding an organization called Al Taqua and any possible links to bin Laden. That has all been rather vague. Do you have any information to provide us on the connection between bin Laden, Al Qaeda and Al Taqua? Or is that the kind of thing that we need to—

Mr. VARRONE. It needs to be, yes, sir.

Senator BAYH. Okay. Well, I guess I answered my own question, Chairman Sarbanes.

My final question for you would be, the figure has been used that 5 percent of Al Barakaat's profits are going to Al Qaeda. I am curious about the methodology used in arriving at the 5 percent. Is that a standard rule that they had, or what was our—

Mr. VARRONE. I have no idea what the basis of the fees or the 5 percent of any remittances.

Senator BAYH. That is just our best estimate at this time?

Mr. VARRONE. Yes, sir.

Senator BAYH. Okay. Gentlemen, I appreciate it and I appreciate your forbearance, too, in staying. I do not think the questioning will be very long for the next two panels and we can wrap this up in an appropriate setting.

Mr. SLOAN. Yes, sir.

Senator BAYH. Thank you both very much.

Mr. VARRONE. Thank you.

Mr. SLOAN. Thank you.

Senator BAYH. Mr. Bariek? Am I pronouncing that correctly?

Mr. Bariek. "Borek."

Senator BAYH. Forgive me. My last name is difficult to pronounce as well, so I can empathize with you. Thank you for your presence today. We are looking forward to hearing from you.

I just want to say before you testify, as with regard to so many examples in life and our society today, very often we focus upon the misuses of organizations and some of the things that we need to improve.

And so, there has been a lot of publicity and a lot of focus upon the misuse of the Hawala system. But I want to say up front that there are many, many legitimate operators. You are among them, providing legitimate services to your customers.

And I want to say that up front here on the record, and thank you for your willingness to come and help explain to the American people the way the system operates, the services you provide, so we can help educate the public about the type of organization we are dealing with here.

And I want to thank you for your willingness to appear before the Subcommittee today.

Mr. BARIEK. You are welcome.

STATEMENT OF RAHIM BARIK
BARIK MONEY TRANSFER

Mr. BARIK. Chairman Bayh, Senator Hagel, and other Members of the Subcommittee, my name is Rahim Bariek, and I run Bariek Money Transfer business in Northern Virginia. I was born in Kabul, Afghanistan and lived there until 1986. I moved to Pakistan and then the United States. My father sponsored me to come to the United States in 1989, and I became a U.S. citizen in September 1994.

In 1997, I wanted to send money to my father-in-law in Pakistan. I went to my local branch of Chevy Chase Bank to wire the money. The bank told me that there was no way that they could guarantee a money transfer to Pakistan, because there is a great deal of corruption in the formal banking system in Pakistan and money often disappears. I tried to send a money order, but it was stolen from the mail. The only way that I could get the money to my father-in-law in Pakistan was through a Hawala. It was safe, faster, and cost less.

That same year, 1997, my brother-in-law invited us to his wedding in Peshawar, Pakistan. I met with my cousins who own a money exchange business and Hawala, Insaf Exchange, Ltd. Insaf is in the choke yadgar—a large market where all forms of currency are exchanged. Most Afghan refugees in Pakistan use Hawala, because they cannot get the money through banks or the mail.

My cousin asked me if I would like to go into the Hawala business with him. My experience trying to send money through Chevy Chase Bank illustrated that there was a great need for Hawala to exist. I agreed to work with him as a money transfer broker.

As a second job, I now run Bariek Money Transfer in my community in Northern Virginia. I have between 200 and 300 customers, who generally send money to Pakistan once a month. Many Afghan families moved to Pakistan with the understanding that they would receive funds from their families in places like the United States, Canada, Australia, and England. Many of my customers make regular monthly deposits with me, by mailing me personal checks or leaving them at the local Afghan stores. They send anywhere between \$20 to \$400 to their families in Pakistan to help them pay rent and buy food and other things and a source of income. Without the money families send from the United States and other countries, many of the families in Pakistan would not be able to pay rent or afford food and other basic needs.

Families also send larger sums of money—between \$1,000 and \$5,000—for weddings, when someone passes away, and other big events. For all these reasons, I consider my job very important and humanitarian in nature.

Let me emphasize—I know all of my customers, and I would never send money for a family I do not know.

This is how my business works. One of my customers comes to me with \$300 and asks to send it to his brother in Pakistan. Charging about 5 percent commission, I take the money and give my customer a transfer/code number which they give to their family in Pakistan. They will need that transfer/code number and iden-

tification to get the money from Insaf Exchange. The family member in Pakistan must also sign a form to show that they received the money. I call and fax Insaf Exchange with the name of the person who will get the money and the transfer/code number. Within 24 hours, the money is guaranteed safe in the hands of my customer's family in Pakistan. That is how I do Hawala. Other Hawala brokers may operate differently.

In order to balance our accounts, I pay some of the bills Insaf Exchange owes to other businesses not located in Pakistan. The money I receive in the United States never goes directly to Pakistan. But it does get to the families in Pakistan that need it.

Hawala is very important to families in my community. Without Hawala, people would never be able to send money to their families abroad. We provide a very legitimate service. Unfortunately, as we saw last week, some Hawala are used for illegal activity or to move terrorist funds. The informal and paperless nature of Hawala makes it easy to take advantage of, but the vast majority of Hawala are legitimate. As I said earlier, I would never send money for a family that I did not personally know.

In Afghan culture, the Hawaladar is an honest person. People trust him, and he has a good reputation and credit with people. For that reason, I strongly commend you on your efforts, Senator Bayh. I pay taxes on my Hawala business, and I comply with the law. I am happy to comply with the new Federal law, which you wrote, and to register and to file suspicious activity reports. I believe that all legitimate Hawalas will be happy to comply. It is upsetting to us that there are Hawalas used for illegal activity. They give all Hawalas a bad name.

Chairman Bayh and other distinguished Senators, I appreciate the opportunity to appear before you today. The Afghan people love the United States. The United States helped the Afghan people during the war with Russia. America also accepted many refugees from Afghanistan and continues to help the Afghan people in Pakistan. I am very proud to be a citizen of the United States.

Right now, the Afghan people do not like the Taliban, Pakistan, and the Arab people who are using Afghanistan for terrorism. Afghan people support America's fight to rid the world and Afghanistan of terrorism.

Four months ago in France, the great Afghan Commandant Mousaud announced on television that he would fight against terrorism in Afghanistan. He did not want Afghanistan to be used by terrorists any longer. Soon after his statement, he was killed by Arab terrorists. Commandant Mousaud was a hero to the people of Afghanistan.

That completes my testimony before you today about the important work that I do for my community and refugees from Afghanistan. I will be happy to answer any questions that you may have.

Thank you so much.

Senator BAYH. Thank you very much, Mr. Bariek. We appreciate your willingness to come before the Committee and offer your testimony. I also congratulate you on becoming a citizen of this country.

Mr. BARIEK. Thank you.

Senator BAYH. And I would point out to Chairman Sarbanes and others, we have a chart here that visually depicts the flow of funds

through the Hawala system, so that, graphically, people can appreciate our witnesses' testimony. You have done a very good job of explaining how the Hawala system functions, Mr. Bariek. I just have a few very brief questions.

Confidentiality—the system as you have described it can be used for legitimate purposes because it is fast, inexpensive and discreet, offering a legitimate service to people who are in need of that service. I would like to ask you about the confidentiality part. You say that you use code words or code numbers in transfers. How important is the confidentiality aspect of the service to the customers that you represent?

Mr. BARIEK. Because when I give the code number to my customer, my customer finally they give to the family in Pakistan, that is the code. And when they go to Insaf, Insaf Exchange business, and also they check their ID and the code number because they know that people are different people. And they give not the right code and also, they do not give the money to him.

Senator BAYH. And my understanding is that there are not many written records kept of these transactions. The code numbers or words, are they destroyed after the transaction is completed?

Mr. BARIEK. Yes, because the code number is important for the people, like a special number, they take the number to the Insaf Exchange, and then they give to them.

Senator BAYH. And this is what really makes it difficult to follow these transactions.

Mr. BARIEK. They check ID also. Without ID and the code number, they never receive the money from them.

Senator BAYH. For other dealers who are using the system for inappropriate purposes, the lack of records I understand is what makes it difficult to follow these transactions.

Mr. BARIEK. Yes. I have no idea about different, but only just I work for Afghan refugees and Pakistan because it is a very bad situation. Right now, they are very poor and there are not jobs there. They need to support the family out of Pakistan, like in other countries, I think.

Senator BAYH. Mr. Bariek, as I understand it, you operate in Virginia and you comply with all of the laws and regulations of Virginia, and are perfectly willing to comply with the new statutory requirements that will go into effect on December 31. As I understand your testimony, a legitimate Hawaladar should have no complaint complying with the new regulations.

Mr. BARIEK. Okay. Thank you.

Senator BAYH. Well, thank you, Mr. Bariek.

Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

First of all, we very much appreciate your testimony and it was very interesting. I just have a couple of questions. If I were to come to you, can you tell me everyone who gave you money and who the money went to over, say, the last year or the last 2 years?

Mr. BARIEK. Yes. If you come to me, if I do not know you, if you are from Afghanistan, I transfer your money. And if you come to me and you give me money, I ask you, check your ID, and also, I give you a telephone number and address. And then after that,

I accept the money. That is it. We have file from 2, 3 years, that is all.

Senator SARBANES. But suppose the man from the Treasury who testified on the panel before you, came to you and said, we would like to know who gave you money and who it was sent to, do you have records that you could tell him that?

Mr. BARIK. Yes, I have records for that.

Senator SARBANES. How far back do you keep it?

Mr. BARIK. Two years.

Senator SARBANES. Two years.

Mr. BARIK. Because the Hawala system should be, the money goes for 24 hours. And we keep that record for 1 and 2 years. After that, we do not need that record because if they not receive the money, they will be complaining about it, the family. But Hawala system is very important system in Afghanistan because there is not banking system in Afghanistan. Between Afghanistan and Pakistan, this is important.

They save business people for life, because they cannot move the money from Afghanistan to Pakistan, and because there is thief. They take them and kill them.

Senator SARBANES. Now, we were discussing before while you were sitting there waiting to testify, about how we let the people who run the Hawalas know that now they are supposed to register.

Mr. BARIK. Yes.

Senator SARBANES. Do you have any ideas on how we could let them know about that, what would be a quick way to let them know?

Mr. BARIK. That will need a few seminars, also. And on TV, newspaper, and that will be good.

Senator SARBANES. Do you know most of the people who do Hawala, or are there a lot of people that you do not know anything about?

Mr. BARIK. I do not know because I work in the family. I do not know because I work only by self and for Afghan community. But I do not know about other countries or other people. I do not know who is.

Senator SARBANES. How do people find out about you to come to you to ask you to transfer money?

Mr. BARIK. Afghan community is small community. It is too close. But I put it in the Afghani yellow page and also Afghan radio. And I put it also—I give my business card for the people.

Senator SARBANES. So, if they wanted to let them know, they should make sure that they do Afghan radio and Afghan yellow pages.

Mr. BARIK. For the money transfer, for 24 hour, and money for your family.

Senator SARBANES. Yes. Well, thank you very much.

Mr. BARIK. You are welcome.

Senator SARBANES. We appreciate it.

Senator BAYH. Thank you, Mr. Bariek.

Mr. BARIK. You are welcome, Senator.

Senator BAYH. Good luck to you.

Now, I would like to ask the witnesses for our next panel to step forward, Mr. Yousef and Mr. Jost.

Thank you, gentlemen, for your time today.

[Pause.]

Mr. Yousef, why don't we begin with you?

**STATEMENT OF TARIK M. YOUSEF, ASSISTANT PROFESSOR
DEPARTMENT OF ECONOMICS, SCHOOL OF FOREIGN SERVICE
GEORGETOWN UNIVERSITY, WASHINGTON, DC**

Mr. YOUSEF. Mr. Chairman, distinguished Members of the Subcommittee, I am pleased to testify before you today on the topic of the Hawala, its origin, how it functions, and what can be done to regulate it. In the interest of time, I will briefly summarize my testimony and enclose the text for the record.

Let me first provide a context for understanding the place of the Hawala in the modern financial system. I will do so by reference to my own personal experience. Prior to the last decade, in all of my travel and living experience in numerous countries in the Muslim world, I had never observed others, nor did I settle a personal or business transaction by any means other than cash. The reasons are not hard to find. For historical and policy reasons, financial development in many countries, many developing countries, including the Muslim world, has lagged behind the advanced nations. Financial systems in most countries in the Muslim world lack depth and sophistication and institutions of regulation and supervision are not fully developed.

Extensive government intervention in these societies, including through repressive financial policies, excessive taxation, foreign exchange and trade restrictions and a banking system that is driven by the needs of governments, all of which have retarded the emergence of modern financial systems.

Reflecting these conditions, cash remains the preferred medium for settling transactions. Banking institutions are concentrated in urban centers. Modern habits of banking have yet to affect the majority of populations, especially in rural areas. Protection of personal property is imperfect, enforcement of contracts is weak, government corruption is endemic, and tax evasion is widespread.

The Hawala institution should be understood in this broader context as an informal means of transferring funds or other assets within or across borders that is used primarily by individuals who are constrained by the level of financial development and government policies.

As is well known, individuals interested in transferring money to remote parts of the world who may want to circumvent trade and foreign exchange restrictions, make use of the Hawala. As has been mentioned already, it is simple, efficient, and low cost relative to other options and, in some cases, the only means to remit income to families in distant parts of the world. Millions of expatriate workers in the world remit incomes through informal money transfer services including the Hawalas, and the funds involved while significant in total are generally small per person and per transaction.

The appearance of the Hawala institution in the United States is directly linked to the growth of immigrant communities especially from South Asia. Although the well-developed U.S. financial system is available for domestic transactions, foreign money trans-

fers remain subject to the problems noted above in the receiving countries. Hence, the Hawala flourishes as a business.

Unfortunately, the simplicity and anonymity of the Hawala system has attracted individuals and groups engaged in illegitimate businesses or those exploiting the Hawala to fund illegal activities, whether they involve money laundering, gambling, smuggling, or terrorism. Hawala operators may or may not be accomplices in such transactions. Their minimal documentation requirements act as both an asset to their business and a liability in case of unintended wrongdoing. More worrisome, the lack of a "paper trail" undoubtedly frustrates any effort by law enforcement agencies investigating the source and destination of Hawala-driven financial flows.

The recent antiterrorism bill under your leadership Senator Bayh took the important step of extending the reach of basic U.S. regulations of money transfer services to the Hawala. By requiring Hawala businesses, among other things, to be licensed, maintain records, and report suspicious transactions, the legislation struck an important balance between protecting U.S. financial and security interests and allowing Hawala operations to serve legitimate purposes for which they had been designed. Hawala operators and customers are both served. As a result, we may in fact witness a growth in these money transfers, benefiting individuals and families in distant countries. On the other hand, noncompliant Hawala businesses or those engaged in illegal activities would potentially face tough sanctions for violating the new legal requirements.

This gradual approach adopted recently by the U.S. Congress to regulate the Hawala will prove more effective than what has been attempted elsewhere in the world, especially when outright prohibition was enacted. The latter approach did not achieve its intended goals and only served to drive the Hawala further underground. They also became more prone to engaging in other illegal activities as part or in parallel with the money transfer operations.

But like all laws, the effectiveness of any legislation, including the most recent, will depend on its implementation and enforcement. And while there is every reason to believe that the majority of Hawala businesses will want to comply with the new legal requirements, it will be some time before effective businesses will come under the regulatory umbrella. Apprehension, confusion, and fear characterize the mood within some immigrant communities at present. Language and cultural barriers also act as obstacles to understanding the implications of the U.S. war on terrorism on their daily lives.

Bringing the Hawalas under the new regulatory umbrella will lift the veil of secrecy that governs its operations. In particular, it could provide authorities with important technical information about its operations across borders, including the methods of settling accounts, the geographic distribution of operators, the size and destination of financial flows, and the use of the rest of the financial system.

But we should be realistic about the limits of what can be achieved within our national borders. So long as there remains a divergence between the United States and other countries in financial development, banking efficiency, taxation levels, and laws

pertaining to foreign exchange transfers, there will exist a demand for the Hawalas and other means of moving money across the globe. More importantly, differences in regulation and supervision standards across countries will create loopholes to be exploited. In this case, international cooperation in sharing information and closer monitoring of international money transfers would prove indispensable.

Again, Mr. Chairman, I appreciate the opportunity to testify before this Subcommittee and I look forward to any questions.

Senator BAYH. Thank you very much, Mr. Yousef. I am grateful for your time.

Mr. Jost.

**STATEMENT OF PATRICK JOST
PRODUCT DEVELOPMENT MANAGER
SRA INTERNATIONAL, INC.**

Mr. JOST. Thank you, sir.

As Mr. Yousef, I will also be truncating my testimony in the interest of time.

I would just like to introduce myself. My name is Patrick Jost. I am currently with SRA International. We make a product called Assentor,[®] which is a—

Senator BAYH. Never run for the U.S. Senate, Mr. Jost. We rarely truncate our remarks in the interest of time.

[Laughter.]

But I appreciate your courtesy. Thank you.

Mr. JOST. This is a compliance tool for the financial community. We look for things that people should not be talking about in their e-mail, such as insider trading and money laundering. And we are currently thinking about expanding this to things like Hawala and terrorist financing.

Before that, as Director Sloan indicated, I was at FinCEN. I was, and I must make this clear for the record, the coauthor of a report on Hawala with a gentleman named Harjit Sandhu, who is with the India Central Bureau of Investigation. I spoke to him last week just prior to his return to India. He will be the Inspector General for the Central Bureau of Investigation in Monipor, which is a region rampant with terrorism. So, he has firsthand experience in this area, and I wish him well.

What I am going to do, my colleagues have done a remarkable job of explaining how Hawala works. You do not need to hear that again. What I would like to talk about for the remainder of my time is some things that I think can be done about the misuse of Hawala.

We have heard about how it has a legitimate purpose. We have heard why it works, how it works. But we all know that there are some problems with it. I would like to make some remarks about those problems.

First, I believe that it is essential for banks and other financial institutions already required to file Suspicious Activity Reports SAR's, to develop an understanding of "what Hawala looks like" and then act accordingly.

This will help in the identification of Hawaladars. If a bank has a client who is conducting Hawala transactions, and this client is

identified as doing so, and a SAR is filed, this can be used by the authorities to determine whether or not the Hawaladar is licensed appropriately.

Even though some Hawaladars advertise, not all of them do, so efforts to locate them based solely on these advertisements will be of limited effectiveness. Many Hawaladars conduct Hawala transactions as part of other business operations; this behavior can, with the proper training, be identified by the banks holding the business accounts.

The relationship between Hawala and financial institutions in the United States is important. In South Asia and in the Middle East, it is possible to do all business by Hawala and avoid regulated financial institutions altogether. This is possible, but difficult to do, in the United States. It is possible to conduct private party automobile sales and various personal transactions using cash, but real estate and various business transactions are almost impossible to execute without a banking relationship.

Even though it is certainly possible for terrorists and other criminals to move vast amounts of money into the United States via Hawala with little or no trace, some of this money is useless unless it can be converted to an acceptable form. This necessitates a relationship between banks and Hawalas. This relationship is a potential vulnerability in a Hawala money laundering or terrorist financing scheme, and this vulnerability should be exploited.

One important aspect of this relationship is the interaction between Hawaladars and financial institutions. Many Hawaladars maintain bank accounts, and transactions involving these accounts may exhibit behavior or behaviors indicative of Hawala, allowing, at a minimum, for the potential identification of Hawaladars and, if appropriate, other actions.

Another important aspect of this relationship is the interaction between the clients of Hawaladars, including the beneficiaries of Hawala transactions, and financial institutions. Even though cash is very often the preferred medium of the Hawala payment, it is possible that a person receiving cash may need to convert it into another form, and this conversion may have to take place at a regulated financial institution. As with transactions involving Hawaladars, these transactions with Hawala clients provide some visibility into the participants in Hawala operations.

There is a very interesting phenomenon that relates to a point in the part I have redacted about how Hawala is very simple. It is on the chart there. That is really all there is to it. But it is kind of like jazz. It is all theme and variations. So this deals with the relationship between Hawaladars and financial institutions, as well as the relationship between financial institutions and the clients of Hawaladars. Recently, I have become aware of cases where the delivery of Hawala funds is not cash, but, rather, a brokerage account already established in the name of the designated recipient of the funds. It is clear that the Hawaladars involved in these transactions have more than a casual relationship with the brokerage. They are establishing not just their own accounts, but accounts on the behalf of others. It is also clear that the owners of these accounts requested them so that they can develop a long-term relationship with the brokerage.

Banks and other financial institutions have experience in analyzing transactions and making necessary reports. I believe that this experience, and the infrastructure associated with it, should be combined with knowledge of Hawala to expand the scope of suspicious activity reporting. If this can be done, I believe it will contribute toward solving the problem posed by the criminal use of Hawala.

The second area I would like to address deals with the difference between money laundering and terrorist financing. In brief, money laundering is the process of taking money from “dirty” sources and making it clean, so that it can be used for what are often legitimate purposes.

This is not always the case with terrorist financing. In many cases, terrorist money has a “clean” origin and a dirty purpose. Some terrorists, such as Osama bin Laden, are wealthy and use their own funds, often derived from legitimate sources, to finance acts of terror. Other terrorists make use of funds received from charity. Some of these organizations appear to have been established solely for the purpose of raising money for terrorists, others are possibly unwitting participants in terrorism. In both of these cases, the money comes from legitimate sources—business dealings or charitable contributions—so what happens with the money is not money laundering.

What happens in many instances of terrorist financing can almost be seen as the inverse of money laundering—clean money becomes dirty money—money used to finance acts of terror.

So, from one perspective, and with a certain amount of simplification, money laundering and terrorist financing are opposites. In money laundering, dirty money becomes clean. In terrorist financing, clean money becomes dirty.

From another perspective, however, the processes have much in common. If financial institutions are used, the three steps in money laundering—placement, layering, and integration—are common to both money laundering and terrorist financing.

Many antimoney laundering countermeasures, such as account opening procedures and Currency Transaction Reports, CTR’s, concentrate on placement. I believe that the scope of placement-oriented countermeasures should be enacted to include Hawala transactions. Initially, I would recommend that this take place by educating financial institutions about Hawala. As more is learned, it is likely that more sophisticated countermeasures could be devised and implemented.

With respect to layering, I believe that more data needs to be gathered in order to identify patterns of layering indicative of possible terrorist finance activities.

I also believe that there should be more emphasis on integration, as this is where the dirty work of terrorist financing takes place. Initially, I believe that the awareness of the fact that funds from legitimate sources can, indeed, have been, used to finance acts of terror is an important first step. As more is learned through investigation and research, it will be possible to specify guidelines enabling financial institutions to identify the possible integration of terrorist funds.

I would like to conclude by summarizing these last two points and by offering a general observation.

First, I believe that it is essential that financial institutions currently subject to SAR reporting requirements develop an understanding of Hawala. This will, I believe, make it more difficult for terrorists and other criminals to use Hawala to finance their activities.

Second, I believe that it is essential that what is known about terrorist financing be made available to financial institutions to assist them not only in complying with reporting requirements, but also to aid them in developing new information about methods. Even though a certain amount of what has been learned about money laundering can be used, terrorist financing is not always the same, so new indicators will have to be developed.

Finally, I would like to commend the Members of Congress for having identified the potential threat posed by Hawala for the movement of funds by terrorists and other criminals. I would also like to commend the U.S. Department of the Treasury's Office of Foreign Assets of Control—OFAC—for its systematic approach in addressing this problem.

Thank you for the opportunity to testify, sir.

Senator BAYH. Thank you, Mr. Jost, very much. I thought your summary was excellent. It is difficult to enlist the regulated financial community if they do not have a full understanding and appreciation of the potential threat and have some of the information that we can share with them. So, I thought that was very good.

I was also interested in your point about integration, legitimate generation of funds being used for illicit purposes. I think that is certainly a big part of the threat we face right now.

Let me be brief, gentlemen. I thank you for your time. Let me just ask a couple of questions.

Mr. Jost, I had a whole lengthy series of questions here qualifying you as an expert. Let the record show I am stipulating you as an expert. You have a very extensive background, and if anyone is interested, we can get into that in greater detail. When did the U.S. Government first take notice of Hawala, in your experience?

Mr. JOST. There is a DEA report, I believe it is called, "Asian Money Movement," which has a short section on Hawala and a short section on the Chinese system. And I speak Indian, but not Chinese, so I am not even going to attempt to pronounce the second one. I believe that that is either from the late 1980's or the early 1990's.

Senator BAYH. Late 1980's or early 1990's. What prompted our interest in this initially? The drug trade using this system?

Mr. JOST. Yes. I believe the author of that report is Mr. Harkin with the DEA, who served with them in Hong Kong.

Senator BAYH. Let me ask you a couple of questions about the element of trust, which is an essential part of the Hawala. How likely is it that a legitimate Hawaladar would knowingly transfer funds for illicit purposes?

Mr. JOST. I think that would be very rare, as Mr. Bariek has previously testified.

Senator BAYH. Would that go to the very heart of the trust relationship?

Mr. JOST. Yes. It would be bad for business, just like it would be bad for a bank to get tied up with something illegitimate.

Senator BAYH. What we are likely looking at here is a significant majority of Hawaladar are perfectly legitimate, likely to remain legitimate, but that the bad ones are bad through and through, not really combining legitimate with illegitimate purposes?

Mr. JOST. Yes. In some of the cases I assisted on at FinCEN, we saw that Hawala networks had been established by the bad guys to do bad things.

Senator BAYH. From your experience, can you give us a rough estimate of the amount of money that flows through Hawala?

Mr. JOST. No, I cannot.

Senator BAYH. There is an honest answer. I would assume that it is fairly significant.

Mr. JOST. Yes, it is a big number. The only number that I feel comfortable floating is there was a study done by the government of India where they estimate approximately half the money in India is Hawala money.

Senator BAYH. One half. And is it increasing in prevalence, in your opinion?

Mr. JOST. It is sensitive to political events. For example, when there is political unrest in India, the rupee is devalued. That puts the Hawala traffic up. When things are calmer, the Hawala traffic drops a little bit because you can get effectively the same rate through formal channels.

Senator BAYH. Let me ask you about the interface between banks and Hawala. You have touched upon the connection, the potential vulnerability between Hawala money laundering and terrorist financing activities. How can we enlist the support of financial institutions? You mentioned about the importance of sharing information with them, having them learn more about Hawala, and that interchange, in our country, at least, being a potential point of vulnerability. How can we go about enlisting their aid and informing them?

Mr. JOST. Well, I think you have answered your own question.

The banks know what they have to do. What they do not know about Hawala could be going on on a large scale right in front of their face and they do not know what it is. We have had some cases where the bank will say, oh, I know what this is. I read that Interpol report.

So, I think the first step is to disseminate as much information as possible about how this works, what it looks like, in as much detail as possible, so that they will know what to report on.

Senator BAYH. And from your experience, would most be eager to cooperate or is it a nuisance, another regulatory burden? Perhaps the events of September 11 have opened some eyes about the importance of being serious about this.

Mr. JOST. I am not a banker. I do business with them in my current position. But I think most of them are willing to comply with the law and certainly willing to help.

Senator BAYH. My last two questions are to Mr. Jost and Mr. Yousef, they are also directed at you. And they relate to the use of charities or nongovernment organizations as a source of funds for terrorist enterprises. Can you elaborate on that a little bit,

Mr. Yost? In your experience, is that a significant source of funds, either charities or NGO's, for illicit organizations?

Mr. JOST. Well, I would say it is significant in that it happens. Once again, since I do not know the money volume that goes through this, I do not know that it is significant in terms of volume. It is a significant aspect of the system because, as charities and NGO's, they are not subject to the same scrutiny other activities are.

Senator BAYH. So, you do not know about the amount, obviously. But the incidence? Is that—

Mr. JOST. Yes, the incidence and the fact that people are taking advantage of the fact that these are respectable activities, in that it is being used to hide the illicit money movement.

Senator BAYH. And as we crack down on the financial system, formal and informal, trying to stay one step ahead, is that, in your opinion, a fruitful area for future inquiry and scrutiny?

Mr. JOST. Yes, Senator, I believe it is.

Senator BAYH. Thank you, Mr. Jost. Since we intended to have hearings on that, I find your answer to be very helpful.

Mr. Yousef, what about charities and NGO's, in your opinion? Is that a significant area of financing for some of these organizations, terrorist organizations?

Mr. YOUSEF. I doubt it, personally. I think that some charities may be involved, unknowingly, in laundering not just money, but laundering also personnel, on behalf of terrorist organizations or organizations engaged in terrorist activities.

But in general, it is really difficult for us to make any general remarks about the work of charities, in part because there is a huge variance in their objectives, their internal organization, their practices, their financial standards.

We should have some guidelines that all charities ought to be expected to comply with. And so far as they raise money or engage in humanitarian or political fund-raising, we ought to be able to look into their books, know who does the fund-raising, where does the money go.

But I think if the Hawala has been a challenge, I think the charities and NGO's in general will even be a bigger challenge, in part because the variance within them on many dimensions is just way too big for any one agency or one authority to get good control and handle over. My own gut feeling is that charities may be used, but that is not the predominant way for terrorists to get their work done.

Senator BAYH. So, you are a skeptic with regard to some of the reports of September 11 about charities in various countries, not in bulk, but in part, having funds going to illicit purposes.

Mr. YOUSEF. Yes.

Senator BAYH. You are skeptical about that?

Mr. YOUSEF. Yes, sir. I am a skeptic here. I guess I am more of the mind that even if charities are involved, in some cases, they may not be aware of what they have been doing.

Especially, I can speak to charities from the Middle East. I have not been impressed by how well organized they are and their own internal standards and financial practices. It is possible that an individual or a number of individuals could exploit these, especially

the big, respectable charities, which have mega-operations scattered all across the globe.

Senator BAYH. Let me ask you about international cooperation. What type of outreach should the United States be doing to facilitate international cooperation? And is there a role for the International Monetary Fund here?

Mr. YOUSEF. I think the International Monetary Fund and other multilateral institutions have been calling for a very long time for the harmonization of many things, including definitions, practices, especially insofar as the international movement of capital.

Part of the problem we have is countries are starting from very different levels of financial development. Some countries are not at all convinced by the whole notion of capital mobility or globalization. Hence, they resist all the requirements. And what they entail in terms of significant financial and training costs. But a lot of these initiatives remain on the table and I think the United States has the leadership and the resources to push many of them.

In particular, in the case of a number of Middle Eastern and Muslim countries, part of the problem is, in fact, the cost entailed to bring their financial systems up to speed to introduce supervision, regulation, that same sort of standards that we take for granted in the United States.

Perhaps the United States may look beyond just providing mere financial aid, technical aid, expertise, and encourage countries to move in that direction.

In the long run, that is about the only thing we can do to, in fact, bring the Hawala into the modern world and perhaps no longer need informal means of moving money, other than those that are, plain and simple, illegal and unlawful.

Senator BAYH. Mr. Yousef, my last question to you would be with regard to the extent to which Hawala are used by drug traffickers to transfer money. How prevalent is that, in your experience?

Mr. YOUSEF. In my experience, when the Hawala was made illegal, when it was prohibited in a number of countries, when the government attempted to crack down on their work, especially when Hawala were only confined to foreign exchange operations, they went underground. And by going underground, they opened themselves up to all kinds of influences. In particular, they need protection. That brings them into contact with smuggling rings, drug rings, and corrupt politicians.

One country to look at in particular in this regard is India, where there have been a number of very serious scandals involving top politicians, involving Hawala dealers and other underground activities.

I think the approach we have adopted here of bringing them to the surface, giving them a legal cover, will in fact perhaps go a long way into clarifying the Hawala to us and clarifying us to them. If I may just add one more point in this regard.

I am particularly concerned about the knowledge out there of what the new legal requirements are, and there is a lot of concern that was expressed earlier by a number of questions.

I think a grassroots level approach is really highly appropriate and highly needed. Language is a big barrier. Culture at times is

a big barrier. And we are operating in an atmosphere where there is a lot of fear and apprehension.

Newspapers may be helpful, but there are a lot of community centers, community networks, mosques and shops, et cetera. In fact, reaching out to these may be low cost and more effective. And I hope we can move in that direction.

Senator BAYH. Thank you, Mr. Yousef.

I think as Mr. Sloan testified, as we move aggressively forward to implement these regulations and try to disseminate information about what is required under the law, it may take some forbearance on the part of enforcement authorities with regard to legitimate, innocent participants in this system who are simply caught up because of ignorance, rather than focusing on those who clearly are involved in illicit activity that we should target and crack down on and put out of business.

So that is going to be a challenge in terms of implementing the standard. But we need to get it put into law, so we can go after the bad guys, even as we exercise some forbearance with regard to innocent people who are simply caught up in this and not attempting to harm anyone. I think your point is well taken.

Gentlemen, thank you very, very much for your time. I would like to thank others in attendance today, other witnesses. Thank you, Mr. Bariek, again.

This hearing will now move into Executive Session for a few moments and I will give us to conclusion after that. Thank you all very much.

[Whereupon, at 4:28 p.m., the Subcommittee proceeded to Executive Session.]

[Prepared statements supplied for the record follow:]

PREPARED STATEMENT OF SENATOR EVAN BAYH

Since the attacks of September 11, much has changed in America. One area where our mind-set should never be the same is in our approach to national security. The new world we operate in requires us to take a comprehensive look at our national security strategy through an entirely new set of eyes. In this war against terrorism, one of the most critical battles will take place not in a foreign land, but in the financial world, as we seek to paralyze terrorist activities by cutting off the financial head of groups like Al Qaeda. In an interview in October with a Pakistani newspaper, Osama bin Laden seemed unconcerned about our efforts to shut off the flow of his money. He said Al Qaeda has three finance systems organized by backers who are as "aware of the cracks inside the Western financial system as they are aware of lines on their hands." "These are the very flaws of the Western fiscal system, which are becoming a noose for it," bin Laden said.

One system which bin Laden and his terrorist cells use to covertly move funds around the world is through "Hawalas" an ancient, informal, and widely unknown system of transferring money. Today's hearing will examine Hawalas and how they have been exploited by bin Laden. Although most Americans have never heard of a Hawala, that system almost certainly helped Al Qaeda terrorists move the money that financed their attacks on the World Trade Center and the Pentagon.

Hawala, from the Hindi word for "trust," is a system of brokers that provides paperless banking transactions and enables individuals to transfer large sums of cash from one country to another without the funds ever crossing borders or being recorded. The Hawala system predates conventional banking by thousands of years and is prevalent in Afghanistan, India, Pakistan, the Middle East, and parts of Africa.

Just last week, the President used his emergency powers to shut down a Somali conglomerate connected to Al Qaeda that was operating in several United States cities, including Fairfax City and Falls Church, Virginia. The Al Barakaat network used Hawalas to move funds to Somalia, Afghanistan, and the Sudan—funds used by Al Qaeda.

On our first panel, Jim Sloan, Director of the Treasury Department's Financial Crimes Enforcement Network (FinCEN) will testify about the Al Barakaat case. FinCEN has been aware of the law enforcement problems raised by Hawalas for many years. In 1998, the Agency released one of the only reports on the subject. FinCEN is also the Agency charged with enforcing the money service business regulations effective on December 31, 2001, which now cover Hawalas as well. Welcome Mr. Sloan. We look forward to hearing your testimony with regard to Hawalas, Al Barakaat, and the money service business regulations.

Also testifying will be Mr. Rahim Bariiek. Mr. Bariiek is a Hawala broker, who runs his business in Northern Virginia. Mr. Bariiek provides important Hawala services for the Afghan community with family in Pakistan. Welcome Mr. Bariiek. Thank you for joining us today. This will be the first opportunity for Congress to hear first hand from a Hawaladar.

Our final panel will include two experts on Hawalas. Professor Tarik Yousef from Georgetown University, who is a specialist in Middle Eastern and Asian banking systems. And Mr. Patrick Jost formerly of FinCEN and coauthor of the 1998 report. Welcome gentlemen.

While much of the money that flows through the Hawala system in the United States is used for legitimate purposes, Hawalas also allow terrorists and drug dealers to smuggle money into the United States, outside the detection of the global banking system. Congress too has recognized the danger of unregulated Hawalas, and moved to regulate their activities in 1994 with passage of a law requiring check-cashing businesses and informal financial enterprises like Hawalas to register with the Government and report transactions over \$3,000.

Unfortunately, the regulations implementing this statute remained unpublished for 6 years, while Hawalas continue to operate in the United States without supervision. That was the reason that I proposed an amendment that will expedite the enforcement of Hawala regulations and give U.S. law enforcement and intelligence authorities some of the tools they need to intercept terrorist financing before it is too late. My proposal was included in the antiterrorism legislation, which the President signed on October 26, 2001.

Targeting the financial network of groups like Al Qaeda will not, by itself, strike a deathblow to international terrorism. However, it will disrupt their terrorist activities and it will give our law enforcement and intelligence communities a better chance of detecting and preventing terrorist acts. We must also aggressively seek out every angle that terrorists use to finance their operations. We must make sure

that every cent of U.S. aid is going to the people who need it the most in developing countries—not to terrorist groups for training and arms.

I intend to hold future hearings on other forms of terrorist financing, like the link between Al Qaeda and certain charities and nongovernmental organizations. Reports have surfaced that some terrorists use funds received by charities.

The war against terrorism demands that we strengthen our resolve, sharpen our skills, and redouble our efforts. I look forward to all of the testimony we will hear today, and to taking the next step to cut off terrorist financing.

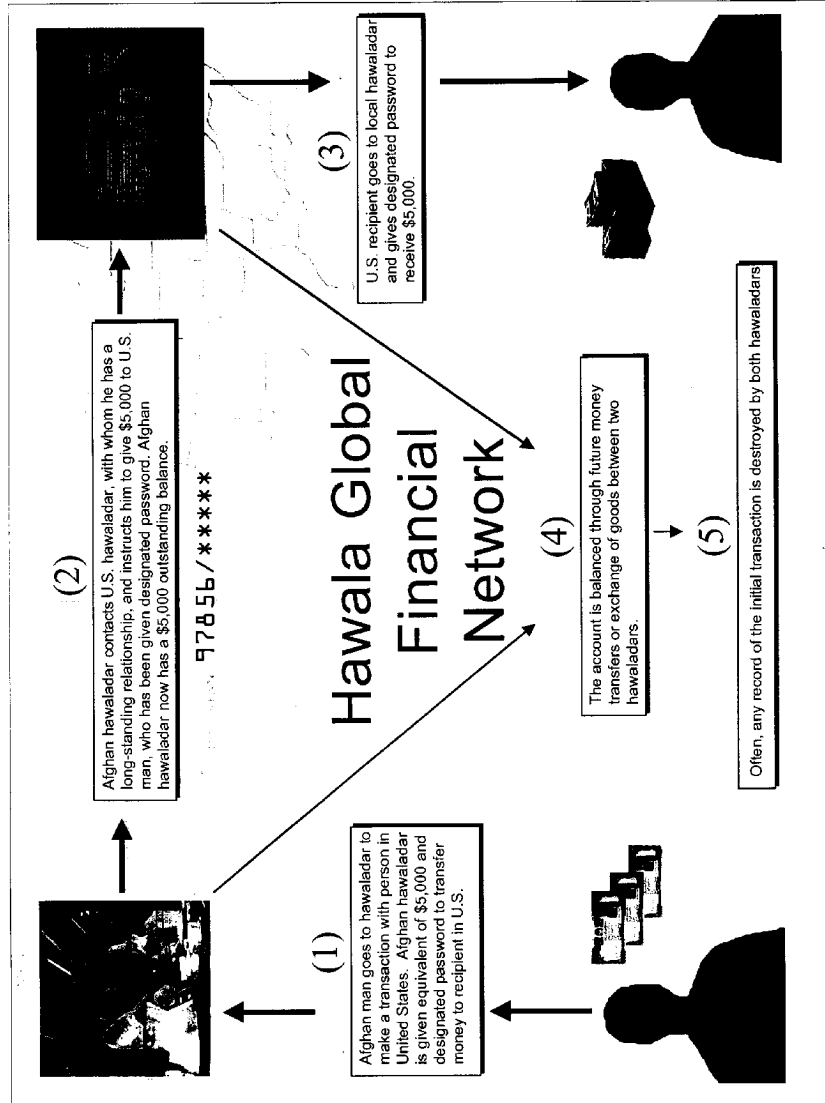
* * *

NEW LAW TO MONITOR HAWALAS IN THE UNITED STATES

The antimoney laundering bill, which passed out of the Senate Banking Committee on October 4, 2001, was incorporated into the antiterrorism bill which President Bush signed into law on October 26, 2001.

That bill included Hawala provisions authored by U.S. Senator Evan Bayh. The effect of the new provisions is to:

- Require all Hawalas to register with the Federal Government and report all suspicious transactions.
- Require the Department of the Treasury to extend registration and Suspicious Activity Reporting (SAR) requirements to Hawalas.
- Require the Secretary of the Treasury to report to Congress, within a year of enactment of this legislation, on Hawalas and other underground banking systems, and report on the need for any additional legislation, including whether the threshold for SAR requirements should be lowered in the case of Hawalas.



PREPARED STATEMENT OF SENATOR CHUCK HAGEL

Thank you, Chairman Bayh, for holding this hearing on such an important and timely issue.

We have known for years that terrorist groups have been able to move money successfully through conventional banking systems. Last month, this Committee passed meaningful money laundering legislation that will help banks and the Treasury Department work in a coordinated fashion to target terrorist operations.

However, in the wake of the September 11 terrorists attacks, we have been able to link the system of money transfers known as "Hawala" to the financing of terrorism. This informal and centuries-old system operates outside the traditional banking world, with little or no paper trail to trace the sources of funds. Traditional means of tracking suspicious financial activities will not work within this system.

The "Hawala" system has recently been the focus of significant attention both from law enforcement officials and from the media. The raiding of the Somali "Hawala" firm Al Barakaat last week demonstrates that our determination to cut off terrorist funding has expanded from traditional banking systems to these unconventional methods. If we are to continue to track terrorist activity through these sources, we must comprehend how they work and determine whether additional information is needed for banks and law enforcement officials.

I do want to emphasize today that the majority of Hawala dealers are good, honest people who help fellow countrymen send money abroad. These dealers work to get money to friends and family members who do not have access to the modern banking system that we all enjoy.

Through this hearing today, we look forward to gaining a greater understanding of this system and developing ideas on how to curtail financing of terrorist networks such as Al Queda.

Thank you again, Mr. Chairman, for holding this important hearing today.

PREPARED STATEMENT OF JAMES F. SLOAN, DIRECTOR

OFFICE OF FINANCIAL CRIMES ENFORCEMENT NETWORK (FinCEN)

U.S. DEPARTMENT OF THE TREASURY

NOVEMBER 14, 2001

Good afternoon, Chairman Bayh and Members of the Subcommittee. Thank you for this opportunity to discuss with you the important issue of informal banking systems, specifically Hawalas, and the potential for abuse of this particular system in terrorist financing, drug trafficking, alien smuggling and tax evasion.

The context of today's hearing—the potential vulnerabilities of informal banking systems to terrorist financing in the wake of the September 11 tragedies—underscores the need to study the use, legal and illegal, of such systems. The Patriot Act recognizes this need and FinCEN will be working with Treasury to prepare recommendations for Congress regarding the need for any additional legislation. This requirement in the Act dovetails with FinCEN's ongoing efforts to conduct an in-depth examination of these systems in the United States.

As the Subcommittee is aware, FinCEN is developing a comprehensive regulatory program to register and require money service businesses, or MSB's, to report suspicious activity (or SAR's). We have been taking preliminary steps to look at these informal financial systems for several years.

MSB is the term used to denote the subgroup of nonbank financial institutions being required to register under the Bank Secrecy Act (or BSA) by December 31, 2001. This subgroup, which includes businesses such as Hawalas that are in effect informal money remitters, is comprised of: money transmitters, issuers of traveler's checks or money orders, sellers or redeemers of traveler's checks or money orders, check cashers and currency dealers or exchangers.

Because there are variations on the definition of "Hawala," it is essential that this and similar systems be thoroughly examined and understood. Toward this end, FinCEN has, and continues, to participate in several initiatives. For example, the Financial Action Task Force regional body in Asia, the Asia Pacific Group (or APG), is undertaking a study of informal banking practices in Asia. The APG project began in 1999 and has focused on investigative case examples from member countries, including the United States, which demonstrate how these systems are used and whether there has been evidence of the movement of proceeds of crime. The APG project group met most recently a few weeks ago, after the events of September 11. Case examples surfaced to date show the continued use of Hawala-type systems in

moving funds associated with such crimes as drug trafficking, alien smuggling, kidnapping, customs fraud and tax evasion. Anecdotal information has also been presented in the APG process on the use of such systems to fund terrorist activity. Other studies, such as one done by the Dutch Ministry of Justice in 1999, indicate that Hawala was used to support terrorism in Kashmir in the early nineties.

In 1999, a report was prepared at FinCEN, which described typical Hawala transactions and discussed how Hawala is used to facilitate money laundering. This study was prepared by Patrick Jost, whom I understand also will be testifying today. As that study noted, this method of monetary value transmission is an ancient system originating in South Asia. Today it may be used around the world to conduct legitimate remittances. When I say "legitimate," I am referring to remittances that may be those of expatriate workers who use a Hawala system believing they are sending money quickly and reliably to family members in their home country.

Earlier this year, FinCEN began a comprehensive study of Hawalas and other informal value transfer systems as they operate in this country. The findings of that study will feed into a broader joint project on Hawalas and similar systems with FinCEN's counterpart in the UK—the National Criminal Intelligence Service. The National Institute of Justice may also provide a grant to support the international scope of the project. The project's objective is to document, based upon actual law enforcement evidence from the United States and around the world, how Hawalas and other such systems are possibly being used as conduits for terrorist financing and other illegal activity. As FinCEN works with the Committee to address the requirements of the Patriot Act, I am confident that its work to date on this issue will be a valuable component of study mandated by the Act.

As the Subcommittee knows, FinCEN, in general, has proceeded very deliberately with its MSB regulatory program. We have taken this approach for a number of reasons: (1) MSB's have not been regulated at the Federal level and therefore it will take time to identify and understand the various MSB sectors and how they operate; (2) many MSB's are small and serve ethnic communities making the task of shaping appropriate regulatory programs even more complex; and, finally, (3) because of the absence of a Federal regulatory infrastructure developing a positive working relationship like the one which currently exists between regulators and the depository institutions will take time.

Having said this Mr. Chairman, one of the first actions I undertook when I became Director of FinCEN, over 2 years ago, was to expedite the process of issuing the final MSB regulations. It was clear that until MSB's were brought into a Federally regulated BSA program, law enforcement could not begin to take effective steps aimed at reducing the vulnerabilities of MSB's to financial crime. Within months of having assumed my office, FinCEN had issued two regulations—registration and SAR reporting. The first regulation requires the principals of all MSB's to register by December 31, 2001, and the second requires money transmitters, issuers and sellers of traveler's checks and money orders and the U.S. Postal Service to report suspicious activity transactions shortly thereafter.

To ensure that MSB's are familiar with these new requirements and to develop better demographics about who and where many of the smaller, independent MSB's, including Hawalas, are located, we have been engaged in an extensive education and outreach program for the past year. FinCEN entered into a multifaceted contract with Burson-Marsteller, a leading public relations firm with extensive experience in conducting nationwide campaigns. FinCEN, in conjunction with Burson-Marsteller, intends to continue this education effort throughout the coming year. Working with the Internal Revenue Service's Office of Examination, we hope to alert all MSB's to their registration and reporting obligations under these new rules. If necessary, the regulations provide us with the use of penalties against MSB's if they fail to comply with the regulations. Our primary interest, however, is in encouraging voluntary compliance with these businesses.

In conclusion, Mr. Chairman, we have already begun to develop a comprehensive regulatory program for MSB's. We are now involved in plans to learn more about these varied businesses and their different needs, including Hawalas. We will keep the Subcommittee and the Committee informed on a regular basis about our findings as we work with other agencies and organizations to provide effective Federal regulation and oversight of MSB's. Again, I appreciate the opportunity to testify before this Subcommittee.

Thank you.

PREPARED STATEMENT OF JOHN VARRONE
 ASSISTANT COMMISSIONER, OFFICE OF INVESTIGATIONS
 U.S. CUSTOMS SERVICE
 NOVEMBER 14, 2001

The U.S. Customs Service appreciates the opportunity to provide this statement for the record.

The U.S. Customs Service has long served as one of the most active money laundering investigative agencies in Federal law enforcement. For years, the agency has worked to disrupt and dismantle the money laundering techniques used by the world's drug cartels to launder narcotics proceeds.

Our criminal investigators are well trained in all types of financial crimes. Using a systems-based approach, we target not only the individuals involved in money laundering and those who finance and fund criminal activity, but also the networks they use to carry out their criminal activities. Now, we are turning this expertise full-force on terrorist organizations and their financial backers and supporters, and against those who help move money for terrorists.

Three weeks ago, Customs Commissioner Robert Bonner joined Deputy Secretary of the Treasury Kenneth Dam, Treasury Under Secretary of Enforcement Jimmy Gurulé, and Assistant Attorney General Michael Chertoff in announcing the launch of a new financial enforcement initiative known as Operation Green Quest.

Green Quest is a multiagency task force targeted against terrorist organizations. It is aimed at freezing and seizing the accounts and assets of terrorist organizations; not just those groups associated with the attacks of September 11, but all the terrorist groups that pose a threat to the United States and to all nations of the world.

Green Quest brings the money laundering investigative expertise of the Treasury agencies to bear on terrorist networks and their financial supporters. It is led by U.S. Customs, and includes the Internal Revenue Service, the Secret Service, Treasury's Office of Foreign Asset Control (OFAC) and FinCEN.

The Operation also draws on the new Foreign Terrorist Asset Tracking Center, and will be supported by the FBI and Federal prosecutors from the Criminal Division of the Department of Justice.

Green Quest seeks to combine our strengths in a more effective way, by melding the intelligence gathering abilities of offices like FinCEN with the investigative expertise of agencies like U.S. Customs, IRS, OFAC, and Secret Service.

A senior U.S. Customs special agent serves as the Director of Operation Green Quest. An IRS criminal investigator is the Deputy Director.

Green Quest operates through two components: a command and coordination center here at Customs Headquarters in Washington, and a field task force made up of dedicated and experienced agents in New York.

These agents have been drawn from a long-term, highly successful money laundering initiative based in New York known as Operation El Dorado. Drawing on the expertise of Customs and IRS agents who have worked money laundering cases in New York and elsewhere, Green Quest will supply the investigative muscle and the expertise to identify, freeze, and seize the accounts and assets of terrorist organizations and their supporters.

This operation will also generate new information on sources of terrorist funding and the systems used to fund terrorist activities. In short, Operation Green Quest will deprive terrorist organizations of the financial means to carry out their activities in the United States and elsewhere in the world.

One week ago today, the United States delivered a major blow against terrorist financing in a coordinated action against a global money transfer network known as Al Barakaat. Acting on intelligence, and equipped with Federal search warrants and blocking orders, agents from Operation Green Quest executed warrants and served blocking notices on a number of affiliated U.S. companies of Barakaat, which had been linked to Osama bin Laden's Al Qaeda organization and other terrorist groups.

Green Quest executed warrants and served blocking notices in six cities across the country, Boston, Falls Church and Alexandria, Virginia; Columbus, Ohio, and Minneapolis and Seattle. Eight Al Barakaat businesses were shut down or searched and, their assets were frozen. In the days that followed, more searches of U.S. firms affiliated with Al Barakaat took place.

These are the first of what we expect to be many actions by Operation Green Quest. We will pursue all avenues of terrorist funding—those that exploit our global banking system, those that manifest themselves through the more informal Hawala network, and other insidious methods, including the use of international trade.

We suspect terrorist organizations of employing trade-based schemes to mask funding sources. What does that mean? Terrorist front companies might overvalue or undervalue merchandise. They might use double invoicing. They might fabricate shipments altogether.

Customs enjoys a longstanding expertise in identifying trade-based money laundering schemes too. Our dual mission to facilitate trade and enforce laws gives us access to vast amounts of financial and trade data. In the trade area, we can look at the import and export history for tens of thousands of companies. We can cross-reference that information against other records and various law enforcement databases through special applications developed by Customs' employees. That allows us to spot trends and anomalies in a particular company's or a particular industry's activities.

Other terrorists may resort to simpler methods of money laundering, such as Bulk Cash Smuggling. New antimoney laundering laws enacted by Congress and signed by President Bush strengthen the laws against those who smuggle concealed cash out of the country, above the \$10,000 dollar allowable amount.

Prior to this new legislation, the smuggling of cash was mainly a reporting offense. The new statute provides for criminal forfeiture of the property involved, and outlines more stringent penalties against violators.

Customs has taken its own, aggressive measures to combat bulk cash smuggling into and out of the United States. Outbound inspections alone of persons and vehicles have resulted in currency seizures over the past 6 years of close to \$340 million.

Again, whatever the terrorist funding source may be, we will pursue it. The combined strength of Federal law enforcement, as manifested in Operation Green Quest, makes for a formidable defense along this crucial front in our global war on terrorism. The active support of the Congress, as demonstrated by this hearing today, lends yet further strength to that effort.

Thank you for this opportunity to provide the views of the U.S. Customs Service on this important new initiative.

PREPARED STATEMENT OF RAHIM BARIK

BARIK MONEY TRANSFER

NOVEMBER 14, 2001

Chairman Bayh, Senator Hagel, and other Members of the Subcommittee, my name is Rahim Bariek, and I run Bariek Money Transfer business in Northern Virginia. I was born in Kabul, Afghanistan and lived there until 1986. I moved to Pakistan and then the United States. My father sponsored me to come to the United States in 1989, and I became a U.S. citizen in September 1994.

In 1997, I wanted to send money to my father-in-law in Pakistan. I went to my local branch of Chevy Chase Bank to wire the money. The bank told me that there was no way that they could guarantee a money transfer to Pakistan, because there is a great deal of corruption in the formal banking system in Pakistan and money often disappears. I tried to send a money order, but it was stolen from the mail. The only way that I could get the money to my father-in-law in Pakistan was through a Hawala. It was safe, faster and cost less.

That same year (1997), my brother-in-law invited us to his wedding in Peshawar, Pakistan. I met with my cousins who own a money exchange business and Hawala, *Insaf Exchange Ltd.* *Insaf* is in the choke yadgar—a large market where all forms of currency are exchanged. Most Afghan refugees in Pakistan use Hawala, because they cannot get the money through banks or the mail. My cousin asked me if I would like to go into the Hawala, business with him. My experience trying to send money through Chevy Chase Bank illustrated that there was a great need for Hawala to exist. I agreed to work with him as a money transfer broker.

As a second job, I now run Bariek Money Transfer in my community in Northern Virginia. I have between 200 and 300 customers, who generally send money to Pakistan once a month. Many Afghan families moved to Pakistan with the understanding that they would receive funds from their families in places like the United States, Canada, Australia, and England. Many of my customers make regular monthly deposits with me, by mailing me personal checks or leaving them at the local Afghan stores. They send anywhere between \$20 to \$400 to their families in Pakistan to help them pay rent and buy food and other things that they need. There are very few jobs in Pakistan, and many people are without work and a source of income. Without the money families send from the United States and other countries, many of the families in Pakistan would not be able to pay rent or afford food

and other basic needs. Families also send larger sums of money—between \$1,000 and \$5,000—for weddings, when someone passes away, and other big events. For all of these reasons, I consider my job very important and humanitarian in nature.

Let me emphasize—I know all of my customers, and I would never send money for a family that I do not know.

This is how my business works. One of my customers comes to me with \$300 and asks to send it to his brother in Pakistan. Charging about a 5 percent commission, I take the money and give my customer a transfer/code number which they give to their family in Pakistan. They will need that transfer/code number and identification to get the money from *Insaf Exchange*. The family member in Pakistan must also sign a form to show that they received the money. I call and fax *Insaf Exchange* with the name of the person who will get the money and the transfer/code number. Within 24 hours, the money is guaranteed safe in the hands of my customers family in Pakistan. That is how I do Hawala. Other Hawala brokers may operate differently. In order to balance our accounts, I pay some of the bills *Insaf Exchange* owes to other businesses not located in Pakistan. The money I receive in the United States never goes directly to Pakistan. But it does get to the families in Pakistan that need it.

Hawala is very important to families in my community. Without Hawala, people would never be able to send money to their families abroad. We provide a very legitimate service. Unfortunately, as we saw last week, some Hawala are used for illegal activity or to move terrorist funds. The informal and paperless nature of Hawala makes it easy to take advantage of, but the vast majority of Hawala are legitimate. As I said earlier, I would never send money for a family that I did not personally know.

In Afghan culture, the Hawaladar is an honest person. People trust him, and he has a good reputation and credit with people. For that reason, I strongly commend you on your efforts, Senator Bayh. I pay taxes on my Hawala business, and I comply with the law. I am happy to comply with the new Federal law, which you wrote, and to register and to file suspicious activity reports. I believe that all legitimate Hawala will be happy to comply. It is upsetting to us that there are Hawala used for illegal activity. They give all Hawala a bad name.

Chairman Bayh and other distinguished Senators, I appreciate the opportunity to appear before you today. The Afghan people love the United States. The United States helped the Afghan people during the war with the Russians. America also accepted many refugees from Afghanistan and continues to help the Afghan people in Pakistan. I am very proud to be a citizen of the United States.

Right now, the Afghan people do not like the Taliban, Pakistan and the Arab people who are using Afghanistan for terrorism. Afghan people support America's fight to rid the world and Afghanistan of terrorism.

Four months ago in France, the great Afghan Commandant Mousaud announced on television that he would fight against terrorism in Afghanistan. He did not want Afghanistan to be used by terrorists any longer. Soon after his statement, he was killed by Arab terrorists. Commandant Mousaud was a hero to the people of Afghanistan.

That completes my testimony before you today about the important work that I do for my community and refugees from Afghanistan. I will be happy to answer any questions that you may have.

Thank you so much.

PREPARED STATEMENT OF TARIK M. YOUSEF

ASSISTANT PROFESSOR

DEPARTMENT OF ECONOMICS, SCHOOL OF FOREIGN SERVICE
GEORGETOWN UNIVERSITY, WASHINGTON, DC

NOVEMBER 14, 2001

Mr. Chairman and distinguished Members of this Subcommittee, I am pleased to testify before you today on the topic of the Hawala institution, its origin, how it functions and what can be done to regulate it. The Hawala institution has drawn much attention recently in the context of the U.S. war on terrorism whose goals include interrupting and preventing the mobilization of resources and transfer of funds through formal or informal channels to finance terrorist activities in the United States or elsewhere.

Let me first provide a context for understanding the place of the Hawala in the modern financial system including in the Muslim world. I will do so by reference

to my own personal experience. Prior to the last decade, in all my travel and living experience in numerous countries in the Muslim world, I had never observed others nor did I settle a personal or business transaction by any means other than cash. The reasons are not hard to find. For historical and policy reasons, financial development in many developing countries including the Muslim world has lagged behind the advanced OECD countries.

The late start with modernization in the post-WWII era has implied that the financial systems of most countries in the Muslim world lack depth and sophistication and that the institutions of regulation and supervision are not fully developed. More importantly, extensive government intervention in these societies including through repressive financial policies, excessive taxation, foreign exchange and trade restrictions and a banking system that is driven by the needs of the governments have retarded the emergence of modern financial systems.

Reflecting these conditions, cash remains the preferred medium for settling transactions and dominates the composition of liquidity in many banking systems. Banking institutions are concentrated in urban centers and cater mainly to the needs of governments and elite segments of society. Modern habits of banking have yet to affect the majority of populations especially in rural areas. Protection of personal property is imperfect, enforcement of contracts is weak, government corruption is endemic, and tax evasion is widespread.

The Hawala institution should be understood in this broader context as an informal means of transferring funds or other assets within or across borders that is used primarily by individuals who are constrained by the level of financial development and government policies. It is a market response by economic agents to their economic environment. Evidence of its existence goes back thousands of years and it is widely in use throughout the world especially in Africa, Asia, and more recently in the United States. It is but one example of numerous informal institutions in credit and foreign exchange markets that have given rise to and reflect the existence of large "underground," "unofficial," and "parallel" economic sectors in many countries.

As is well known, individuals interested in transferring money to remote parts of this world and who may want to circumvent trade and foreign exchange restrictions or minimize other risks to their funds make use of the Hawala. It is simple, efficient and low cost relative to other options and, in some cases, the only means to remit income to families in distant parts of the world. Millions of expatriate workers in the world remit incomes through informal money transfer services including the Hawala and the funds involved while significant in total are generally small per person and per transaction.

The appearance of the Hawala institution in the United States is directly linked to the growth of immigrant communities' especially from South Asia. Although the well-developed U.S. financial system is available for domestic transactions, foreign money transfers remain subject to the problems noted above in the receiving countries. Hence, the Hawala flourishes as a business in this country. Most individuals utilizing the Hawala system and most operators of the system in the United States could be safely presumed to be conducting legitimate activities at both the sending and receiving end of transactions.

Unfortunately, the simplicity and the anonymity of the Hawala system has also attracted the individuals and groups engaged in illegitimate businesses or those exploiting the Hawala to fund illegal activities whether they involve money laundering, gambling, smuggling, or terrorism. Hawala operators may or may not be accomplices in such transactions. Their minimal documentation requirements act as both an asset to their business and a liability in case of unintended wrongdoing. More worrisome, the lack of a "paper trail" undoubtedly frustrates any effort by law enforcement agencies investigating the source and destination of Hawala driven financial flows.

Reports that the Hawala was used in the past by terrorist organizations and most recently by those responsible for the September 11 attacks have prompted calls for legal authority and executive steps to investigate and when applicable seize assets and prosecute those guilty of aiding terrorists financially including Hawala operators. Already, a number of money transfer services have been closed down and their assets frozen worldwide. The Anti-Terrorism Bill passed a few weeks ago empowers the Government to monitor many channels suspected of use to launder money and finance terrorism including the Hawala. In particular, the recent bill took the important step of extending the reach of basic U.S. regulations of money transfer services to the Hawala.

By requiring Hawala businesses, among other things, to be licensed, maintain records and report suspicious transactions, the legislation struck an important balance between protecting U.S. financial and security interests and allowing Hawala

operations to serve legitimate purposes for which they had been designed. Hawala operators and customers are both served. The business owner acquires a legal standing that facilitates his operations and the customer is protected by legal recourse. As a result, we may in fact witness a growth in these money transfers, benefiting individuals and families in distant countries. On the other hand, noncompliant Hawala businesses or those engaged in illegal activities would face sanctions for violating the new legal requirements, potentially limiting their customer base.

The gradual approach adopted recently by the U.S. Congress to regulate the Hawala will prove more effective than what has been attempted elsewhere in the world especially when outright prohibition was enacted. The latter approach did not achieve its intended goals and only served to drive the Hawala further underground. This allowed Hawala businesses to charge customers higher fees and further conceal their operations. They also became more prone to engaging in other illegal activities as part or in parallel with their money transfer operations. Their need for protection brought them under the influence of smuggling rings, money laundering networks and corrupt politicians.

But like all laws, the effectiveness of any legislation including the most recent will depend on its implementation and enforcement. And while there is every reason to believe that the majority of Hawala operators will want to comply with the new legal requirements, it will be some time before affected businesses will come under the regulatory umbrella. Apprehension, confusion, and fear characterize the mode within some immigrant communities at present. Language and cultural barriers also often act as obstacles to understanding the implications of the U.S. war on terrorism on their daily lives. A concerted effort needs to be made at the grassroots level throughout these scattered communities to explain the changes and clarify the obligations of those affected by any legislation.

Bringing the Hawalas under regulatory control will lift the veil of secrecy that governs its operations. In particular, it would provide authorities with important technical information about its working across borders including the methods for settling accounts, the geographic distribution of operators, the size and destination of financial flows, and the use of deposits in the formal financial system. This information could prove invaluable for law enforcement agencies and future legislation especially when international cooperation is sought among national monetary authorities to harmonize definitions and regulatory practices.

But we should be realistic about the limits of what can be achieved in the short-term within our national borders to bring the Hawala institution into the modern world. So long as there remains a divergence between the United States and other countries in financial development, banking efficiency, taxation levels, and laws pertaining to foreign exchange transfers, there will exist a demand for the Hawala and other means of moving money across the globe. More importantly, difference in regulation and supervision standards across countries will create loopholes to be exploited by Hawala operators and other informal practices. In this case, international cooperation in sharing information and closer monitoring of international money transfers would prove indispensable.

Beyond the Hawala, efforts to track terrorist financing will lead to consideration of other formal and informal institutions suspected of acting as conduits for raising or moving money across international borders. Specifically, several reports have indicated that national and foreign charities are being investigated for suspicious financial activities and other connections to terrorist organizations. In this regard, we face even bigger challenges than in the case of the Hawala. The variance in the objectives, scope of work, internal organization, and financial practices of charities is wide, making it difficult to apply uniform regulations. Given that these charities in many countries represent the only avenues for the emergence of civil society, we must proceed with caution and seek local cooperation for information and law enforcement.

PREPARED STATEMENT OF PATRICK JOST

PRODUCT DEVELOPMENT MANAGER
SRA INTERNATIONAL, INC.

NOVEMBER 14, 2001

Mr. Chairman and distinguished Members of this Subcommittee, my name is Patrick Jost. I am currently with SRA International, developers of Assentor,[®] which is a system for the analysis of e-mail messages, instant messages, and faxes in brokerages and other financial institutions. Assentor looks for indicators of activities such as money laundering and price fixing, and quarantines messages containing

these indicators for review. We are currently enhancing the product to analyze other types of documents for possible indicators of Hawala and terrorist financing.

Prior to joining SRA, I was with FinCEN, the U.S. Department of the Treasury's Financial Crimes Enforcement Network. At FinCEN, I was responsible for South Asia—India, Pakistan, and neighboring countries. While at FinCEN, I assisted many domestic and international law enforcement agencies with the analysis of cases involving Hawala. I have seen Hawala, or what I might refer to as “Hawala techniques” used as a component of money laundering schemes for predicate offenses including narcotics trafficking, alien smuggling, insider-trading, and political corruption.

In conjunction with Harjit Sandhu of India's Central Bureau of Investigation, then detailed to Interpol, I undertook a detailed study of Hawalas that resulted in the publication of three reports—one on Hawalas, one on the money laundering situation in India and one on the money laundering situation in Pakistan. Among his significant contributions to these reports, Mr. Sandhu provided valuable information on the use of Hawala as a component of terrorist financing.

In the course of the preparation of these reports and my other work at FinCEN, I spent a great deal of time in South Asia. Given my longstanding interest in that part of the world, I improved my knowledge of Hindi and Urdu, and learned some Gujarati to assist me in my study of Hawala and to provide effective support to investigations and analysis.

I would now like to provide an overview of the mechanics of a Hawala transaction. Before doing so, I would like to point out that there are two essential characteristics of Hawala—the first is a network of Hawala brokers or dealers, called Hawaladars in Hindi and Urdu and often referred to as “Hawala operators” in the English language South Asian press, and the second is the trust that exists not only between Hawaladars but also between Hawaladars and their clients.

With this context, let me proceed with an example of a typical Hawala transaction. Suppose an individual in a large United States city wishes to remit the sum of \$5,000 to a relative living in South Asia. This individual contacts a Hawaladar, and they negotiate terms.

These terms often include the rate of exchange and the manner of delivery of the money. The Hawaladar will take the money, and make contact with an associate in or near the place where the money is to be delivered. This second Hawaladar will make the necessary delivery arrangements. This can be done by sending a courier to the person with the money, or by providing a phone number to be called to arrange delivery.

It is useful to think of the above example as a Hawala “theme”; and what actually happens, is, as in improvised music the “variations” on the theme. The Hawala system is very flexible, so many variations occur. This can be seen in the ways Hawaladars settle their debts. Sometimes, the flow between two Hawaladars is balanced, so, in a reasonable amount of time, debts are settled automatically.

Another possibility is that the Hawaladar has money in a country and cannot remove it due to measures designed to counter capital flight. These measures can be circumvented via Hawala. The Hawaladar accepts money in his current country of residence, and has an associate “drain” the supply of money in the other country until it is gone. Some Hawaladars utilize invoice manipulation schemes to settle their debts. These schemes are often necessary because of remittance controls.

For example, a Hawaladar operating in the United States could send an associate \$100,000 by purchasing \$200,000 worth of goods that his associate wants. He ships the merchandise with an invoice for \$100,000. The associate receives the merchandise and pays the first Hawaladar \$100,000. This payment appears to be legitimate because of the shipment and the invoice. The associate has \$200,000 worth of merchandise for which only \$100,000 was paid. This technique, known as “under invoicing” is one way of circumventing remittance controls, as well as settling debts between Hawaladars.

The inverse of this, “over invoicing” also exists. It would, for example, be used to transfer money to the United States. A Hawaladar operating in the United States would purchase \$100,000 worth of goods that his associate wants. He would ship the goods with an invoice for \$300,000. Payment of this amount would allow the associate to move \$200,000 to the United States. Like “under invoicing” this technique can be used to circumvent remittance controls and settle debts between Hawaladars.

What might be termed “debt assignment” also takes place. If Hawaladar A owes money to Hawaladar B, and Hawaladar B owes money to Hawaladars C and D, Hawaladar B might ask A to settle the debts with C and D, settling his debt with B. As with other aspects of Hawala transactions, there is a great deal of flexibility.

Hawaladars will use these settlement methods—or variations on them—as needed and dictated by circumstances.

The majority of Hawala transfers out of the United States are remittances by South Asians living and working here to friends or relatives still in South Asia. There are several reasons for this. The first is a cultural preference for Hawala. Hawala was developed as a remittance mechanism in South Asia before the appearance of “western” style banking, and continues to be used. The second is cost effectiveness. Since Hawaladars do not necessarily respect official exchange rates, they can often deliver more rupees per dollar than an institution that respects official exchange rates. This is an important part of Hawala; Hawaladars make a certain amount of their profit off of exchange rate speculation, and much “colorful language” is often used while bargaining over very small differences in exchange rates! A third is speed—many Hawaladars offer service “in 2 hours” even though 24 hours is more realistic, given time differences, but is, in any case, almost always faster than bank transfers. The final consideration is reliability, closely related to the trust component of Hawala—transfers are not “lost in the mail” or “held up at the bank”; when someone places an order with a Hawaladar, there is little if any doubt that the money will be delivered.

In some respects, the Hawala system is self-regulating. Hawaladars form an extended community, and it is rare for them to defraud one another or their clients. In the rare cases where this has happened, other Hawaladars have been known to make good on the debts of their colleague. While it is possible that some sort of “disciplinary action” will be taken, a Hawaladar who commits fraud is one who cannot be trusted. Without the trust of other Hawaladars, he can no longer function effectively. To summarize, Hawala is a system that is cost-effective, quick, reliable and secure. These characteristics of Hawala account, in large part, for its use instead of other remittance systems. There are also places, like Afghanistan, where Hawala is the only viable remittance system.

These factors also account for the use of Hawala by certain terrorist organizations. Osama bin Ladin is a Saudi with connections to Afghanistan and Somalia. All of these are countries where Hawala is the preferred means of remitting money.

Terrorists, drug traffickers and other criminals also exploit another characteristic of Hawala. This is its frequent lack of a complete paper trail documenting all parties to a transaction. It is not uncommon for Hawaladars to maintain only logs of debts with other Hawaladars. Records of remittance clients and beneficiaries are kept only long enough to facilitate the transaction, and the debt logs are often kept until the debts have been settled.

The lack of a paper trail is but one of several difficulties in investigating the criminal use of Hawala. Even when records are available, they are rarely in English, necessitating translation. Even though the records may contain names of other Hawaladars, the names are rarely, if ever complete enough to facilitate proper identification—references to “Ali Hussein” or “Shahbhai” are typical.

The most significant investigative barrier is probably the fact that “Hawala behavior” lies well outside the cultural experience of most U.S. investigators. Hawala is a system where large amounts of money are handed over without receipts, confirmation numbers, or identification. Hawala transactions take place in the context of a large network unlike a “traditional” corporate structure. The business of Hawala is conducted informally, with little in the way of overhead and almost nothing in the way of a regulatory infrastructure, making it, in this respect, nearly the antithesis of banking.

I would like to devote the remainder of my remarks to possible solutions to the problems posed by Hawala.

Recent legislative changes calling for the registration and the supervision of Hawaladars, as well as for identifying Hawala transactions as potentially suspicious are commendable first steps, but I do believe that much remains to be done. There are two areas that I believe need to be addressed.

First, I believe that it is essential for banks and for other financial institutions already required to file Suspicious Activity Reports (SAR’s) to develop an understanding of “what Hawala looks like” and act accordingly.

This will help in the identification of Hawaladars. If a bank has a client who is conducting Hawala transactions, and this client is identified as doing so, and a SAR is filed, this can be used by the authorities to determine whether or not the Hawaladar is licensed appropriately.

Even though some Hawaladars advertise, not all of them do, so efforts to locate them based solely on advertisements will be of limited effectiveness. Many Hawaladars conduct Hawala transactions as part of other business operations; this behavior can, with the proper training, be identified by the banks holding the business accounts.

The relationship between Hawala and financial institutions in the United States is important. In South Asia and the Middle East, it is possible to do all business by Hawala and avoid regulated financial institutions altogether. This is possible, but difficult to do, in the United States. It is possible to conduct private party automobile sales and various personal transactions using cash, but real estate and various business transactions are almost impossible to execute without a banking relationship.

Even though it is certainly possible for terrorists and other criminals to move vast amounts of money into the United States via Hawala with little or no trace, some of this money is useless unless it can be converted into an acceptable form. This necessitates a relationship between banks and Hawala. This relationship is a potential vulnerability in a Hawala money laundering or terrorist financing scheme, and this vulnerability should be exploited.

One important aspect of this relationship is the interaction between Hawaladars and financial institutions. Many Hawaladars maintain bank accounts, and transactions involving these accounts may exhibit behavior(s) indicative of Hawala, allowing, at a minimum, for the potential identification of Hawaladars and, if appropriate, other actions.

Another important aspect of this relationship is the interaction between the clients of Hawaladars (including the beneficiaries of Hawala transactions) and financial institutions. Even though cash is very often the preferred medium of a Hawala payment, it is possible that a person receiving cash may need to convert it into another form, and this conversion may have to take place at a regulated financial institution. As with transactions involving Hawaladars, these transactions with Hawala clients provide some visibility into the participants in Hawala operations.

There is a very interesting phenomenon that goes back to a point I made earlier about variations in Hawala and is an excellent example of the relationship between Hawaladars and financial institutions as well as the relationship between financial institutions and the clients of Hawaladars. Recently, I have become aware of cases where the “delivery” of Hawala funds is not cash, but a brokerage account already established in the name of the designated recipient of the funds. It is clear that the Hawaladars involved in these transactions have more than a casual relationship with the brokerage; they are establishing not just their own accounts, but accounts on the behalf of others. It is also clear that the owners of these accounts requested them so that they can develop a long-term relationship with the brokerage.

Banks and other financial institutions have experience in analyzing transactions and making the necessary reports. I believe that this experience, and the infrastructure associated with it should be combined with knowledge of Hawala to expand the scope of suspicious activity reporting. If this can be done, I believe it will contribute toward solving the problem posed by the criminal use of Hawala.

The second area deals with the difference between money laundering and terrorist financing. In brief, money laundering is the process of taking money from “dirty” sources and making it “clean” so that it can be used for what are often legitimate purposes. This is not always the case with terrorist financing. In many cases, terrorist money has a “clean” origin and a “dirty” purpose. Some terrorists, such as Osama bin Ladin are wealthy, and use their own funds—often derived from legitimate sources—to finance acts of terror.

Other terrorists make use of funds received from charities; some of these organizations appear to have been established solely for the purpose of raising money for terrorists, others are possible unwitting participants in terrorism. In both of these cases, the money comes from legitimate sources—business dealings or charitable contributions—so what happens with it is not money laundering.

What happens in many instances of terrorist financing can almost be seen as the inverse of money laundering. “Clean money” becomes “dirty money”—money used to finance acts of terror.

So from one perspective, and with a certain amount of simplification, money laundering and terrorist financing are opposites. In money laundering, dirty money becomes clean; in terrorist financing, clean money becomes dirty.

From another perspective, however, the processes have much in common. If financial institutions are used, the three steps in money laundering—placement, layering and integration—are common to both money laundering and terrorist financing.

Many antimoney laundering countermeasures, such as account opening procedures and Currency Transaction Reports (CTR's) concentrate on placement. I believe that the scope of “placement-oriented” countermeasures should be enacted to include Hawala transactions. Initially, I would recommend that this take place by educating financial institutions about Hawala. As more is learned, it is likely that more sophisticated countermeasures could be devised and implemented.

With respect to layering, I believe that more data needs to be gathered in order to identify patterns of layering indicative of possible terrorist finance activities.

I also believe that there should be more emphasis on integration, as this is where the “dirty work” of terrorist financing takes place. Initially, I believe that the awareness of the fact that funds from legitimate sources can, indeed have been, used to finance acts of terror is an important first step. As more is learned through investigation and research, it will be possible to specify guidelines enabling financial institutions to identify the possible integration of terrorist funds.

I would like to conclude by summarizing these last two points and by offering a general observation.

First, I believe that it is essential that financial institutions currently subject to SAR reporting requirements develop an understanding of Hawala. This will, I believe, make it more difficult for terrorists and other criminals to use Hawala to finance their activities.

Second, I believe that it is essential that what is known about terrorist financing be made available to financial institutions to assist them not only in complying with reporting requirements but also to aid them in developing new information about methods. Even though a certain amount of what has been learned about money laundering can be used, terrorist financing is not always the same, so new indicators will have to be developed.

Finally, I would like to commend the Members of Congress for having identified the potential threat posed by Hawala for the movement of funds by terrorists and other criminals. I would also like to commend the U.S. Department of the Treasury’s Office of Foreign Assets of Control (OFAC) for its systematic approach in addressing this problem.